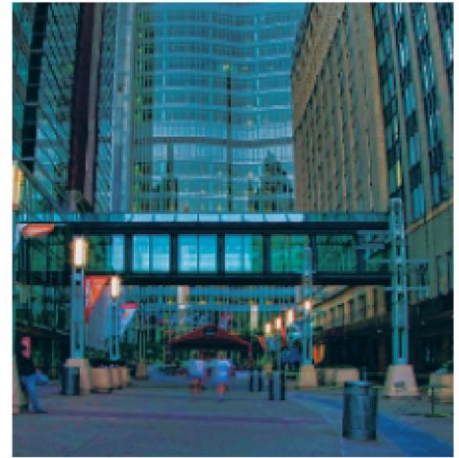


ROCHESTER, MINNESOTA



CLARION

Public Draft of Installment 1
September 2020

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Chapter 60.100 General Provisions

This Chapter will be drafted in a later installment.

Section 60.100.010	TITLE
Section 60.100.020	PURPOSE
Section 60.100.030	APPLICABILITY
Section 60.100.040	AUTHORITY
Section 60.100.050	RELATIONSHIP TO RESTRICTIVE COVENANTS
Section 60.100.060	TRANSITION RULES
Section 60.100.070	EFFECTIVE DATE
Section 60.100.080	SEVERABILITY

Chapter 60.200 Zone Districts

Commentary

This article includes a new lineup of zoning districts as well as unique standards that apply only in those districts. It is intended to be reviewed with Chapter 60.300, *Use Regulations*, and with the relevant definitions in Chapter 60.600. It begins with an introductory Section that lists and establishes each of the zoning districts, discusses the role of the zoning map, and the organization of this Article.

New List of Zoning Districts

This draft generally implements the proposed new list of zoning districts suggested in the Assessment. Per that report, some districts are not carried forward (e.g. the Developing District), while other districts have been consolidated based on similar purposes and standards (e.g. Pedestrian Oriented Restricted Commercial District and Residential Commercial District). In addition, some new districts are proposed to further the goals in the Comprehensive Plan (e.g. Mixed Use Center District). Each district contains a purpose statement establishing the overall intent and footnotes as to how it relates to the current LDM.

Some changes to the district lineup are introduced in this draft that were not noted in the Assessment. For the most part, the Assessment recommended carrying forward the current list of residential districts. Upon additional input from Staff and stakeholders, the residential lineup was further consolidated. Instead of eight different residential districts, five residential districts were carried forward. Likewise, the three floodplain related districts were consolidated into one overlay district. The consolidation of those districts is explained in the footnotes of the individual district Sections below.

Lot and Building Standards

For each district, a new purpose statement is followed by a table of applicable lot and building standards. These tables provide the most common applicable standards for development in that district such as minimum lot size, required building setbacks, and maximum height standards. In cases where zoning districts were consolidated and the consolidation required reconciling conflicting lot and building standards, we generally carried forward the most flexible standard unless otherwise noted. These dimensional standards are preliminary and will be reviewed and refined when additional lot and building dimensional standards are drafted as part of Installment 2.

Illustrations

Following the table of lot and building standards, each district includes an illustration depicting the basic lot and building standards and the typical character of the district. These graphics will be adjusted throughout the drafting process to match any changes to the standards. The depiction of maximum height will be adjusted to show that height is measured from the mid-point of the roof, rather than the high point.

Section 60.200.010 ZONING DISTRICTS ESTABLISHED

A. Summary Table of Zoning Districts¹

The zoning districts shown in Table 200.01-1 are hereby established.

¹ Replaces language in current 60.300 and 60.310. The left hand column is included to assist in review of the draft UDC and will be deleted before adoption.

Table 200.01-1 Summary Table of Zoning Districts

Prior District Name	New District Name
Agricultural and Residential Districts	
AG - Agriculture	AG -- Agriculture
R-1 -- Mixed Single Family	R-1 -- Mixed Single Family
R-Sa -- Mixed Single Family Overlay	
R-1x -- Mixed Single Family Extra	R-2 -- Low Density Small Lot
R-2 -- Low Density Residential	
R-2x -- Low Density Residential Extra	R-2x -- Low Density Residential Infill
R-3 -- Medium Density Residential	R-3 -- Medium Density Residential
R-4 -- High Density Residential	
CDC -- Central Development Core Residential subdistrict	R-4 -- High Density Residential
Mixed-Use Districts	
B-2 -- Pedestrian Oriented Restricted Commercial	MX-N -- Mixed-Use Neighborhood Scale
B-5 -- Residential Commercial	
B-1 -- Restricted Commercial	MX-S -- Mixed-Use Street Oriented
--	MX-C -- Mixed-Use Center
B-4 -- General Commercial	MX-G -- Mixed-Use General
MRD -- Mixed Redevelopment	MX-I -- Mixed-Use Institutional
TOD -- Transit Oriented Development (Node and Corridor subdistricts)	MX-T -- Transit Oriented Development (Node, Corridor, and Village subdistricts)
CDC -- Central Development Core (Fringe, Business, and Medical, subdistricts)	MX-D -- Mixed-Use Downtown (Fringe, Business, and Medical subdistricts)
Non-Residential Districts	
M-3 -- Low Intensity Mixed Commercial Industrial	BP -- Business Park
M-1 -- Mixed Commercial Industrial	LI -- Light Industrial
M-2 -- Industrial	SI -- Special Industrial
H -- Holding Zone	
I -- Interim Zone	H -- Holding Zone
Overlay Districts	
Rochester International Airport Zoning Ordinance (freestanding ordinance)	APO -- Airport Protection Overlay
--	LCO -- Local Character Overlay
Heritage Preservation Overlay District (Rochester Code Section 4.7)	HPO -- Heritage Preservation Overlay
Shoreland District	SDO -- Shoreland District Overlay
Decorah Edge Overlay District (Olmsted County Code Section 9.20)	DEO -- Decorah Edge Overlay
FF -- Flood Fringe District	
FP -- Flood Prone District	FPO -- Floodplain Overlay
FW -- Floodway District	

Section 60.200.020 OFFICIAL ZONING MAP²

A. General³

1. Zoning districts established by this UDC are bounded and defined as shown on the Official Zoning Map of Rochester that, together with all explanatory materials contained on that map, is made a part of this UDC.
2. The Official Zoning Map is the latest version of the map reflecting the boundaries of those districts established by this UDC that is maintained on the City's website and reflects all amendments to the map approved by Council.
3. The Community Development Director shall be responsible for maintaining the Official Zoning Map so that it reflects all amendments approved by Council and shall ensure that the City Clerk is able to access that map.

B. Boundary Interpretation⁴

1. The Community Development Director shall use the following rules to determine the precise location of any zone boundary shown on the Official Zoning Map:
 - a. Boundaries indicated as approximately following governmental incorporation or extraterritorial jurisdiction boundaries shall be construed as following those boundaries.
 - b. Boundaries indicated as following or approximately following the center lines of streets, highways, or alleys shall be construed to follow those centerlines.
 - c. Boundaries indicated as approximately following platted lot lines shall be construed as following those lot lines.
 - d. Boundaries shown as following or approximately following railroad lines shall be construed to lie midway between the main tracks of such railroad lines.
 - e. Boundaries shown as following or approximately following the centerline of streams, rivers, or other continuously flowing water courses shall be construed as following the channel centerline of those water courses taken at mean low water, and in the event of a natural change in the location of such streams, rivers, or other water courses, the zone boundary shall be construed as moving with the channel centerline.
 - f. Boundaries shown as following shorelines of any lake shall be construed to follow the mean high waterline of the lake, and in the event of change in the mean high waterline, shall be construed as moving with the actual mean high waterline.
 - g. Boundaries shown as following section lines, half section lines, or quarter section lines shall be construed as following those lines.
 - h. Boundaries indicated as following the contours of certain elevations or soils of a particular type shall be construed as following the actual height or soil contour as determined by accepted surveying practice.

² Section updated to reflect maintenance of an electronic zoning map, and to delete current 60.363 (Zoning Administrator's Role in Maintaining Zoning Map), which sets up an unusual distinction between the current and official zoning maps, based mostly on certification and the involvement of the clerk, that is not needed when maps are maintained electronically.

³ Source: 60.360 and 60.361. Revised to identify the electronic map, rather than a paper map, as the official map.

⁴ Source: 60.364.

-
- i. Boundaries indicated as separated from, and parallel or approximately parallel to, any of the features listed in paragraphs one through eight above shall be construed to be parallel to those features and at such distances there from as are shown on the map.
 2. A property owner or applicant may appeal the decision of the Community Development Director regarding a zoning district boundary under subsection 1 above as described in **[insert x-ref in later installment]**. For the purposes of that Section, a zoning district boundary determination is considered a non-use interpretation.

Section 60.200.030 BASE DISTRICTS

Commentary

This Section includes purpose statements, dimensional standards (lot and building standards), graphics and diagrams, and other related standards for each zoning district. Purpose statements were edited for clarity and consistency. Generally, dimensional standards were consolidated so that standards are applied consistently within an individual district, rather than having different standards for each use in each district (more details below). A summary of major changes is shown below. Additional information about each district is provided in the footnotes of the individual districts.

Districts Not Carried Forward

As recommended in the Assessment, the following districts have not been carried forward: D – Developing district; CN – Core Neighborhood districts (replaced by R-2x in 2018); PUD – Planned Unit Development (the procedures for amending a PUD will be included in a later installment); DMCDPOZ – Destination Medical Center Downtown Parking Overlay Zone (parking standards will be included in a later installment including contextual standards for the downtown medical center area); DPOZ – Downtown Parking Overlay Zone (see DMCDPOZ parenthetical); and SD – Special District (the provisions of approved special districts will be carried forward as a combination of proposed zone districts and site-specific development approvals that reflect the content of the current approvals).

District Consolidation

Feedback from stakeholders and Staff emphasized the desire to further consolidate the list of residential zoning districts. This draft responds to that recommendation and further consolidates the zoning districts beyond the recommendations in the Assessment in the following ways:

- The R-1 district consolidates the current R-1, R-1x, and R-Sa districts.
- A recommendation in the Assessment to add an additional small lot district was not adopted in this draft because the R-2 district fulfills that purpose.
- The R-4 district consolidates the current R-4 district and the CDC Residential subdistrict.
- The MX-N district consolidates the current B-2 and B-5 districts.

MX-T Village Subdistrict

A placeholder for a third MX-T (formerly TOD) subdistrict was added for discussion purposes. This subdistrict would be the most intense of the MX-T subdistricts and is intended to implement evolving recommendations for major transit-related developments currently being developed to support the Rapid Transit Project.

Special Districts

Special Districts, which act like a type of planned development, are not being carried forward (with one exception). The current recommendation is for these to be replaced by (1) the new base zoning district most similar to the character, scale, and intensity of the approved Special District, (2) approval or pre-approval of site specific use, dimension, and intensities that differ significantly from those base districts, and (3) cross-references to updated UDC standards for landscaping, parking, lighting, signs, and other matters where administration of unique Special District standards require an undue amount of staff effort while adding little to the quality or character of the City. The one exception is the Mayo Special District, which is so interwoven with existing CDC district zoning that dividing the two would be very difficult.

Lot Dimension Requirements

Lot dimension requirements (e.g. minimum lot area and lot width) were consolidated where necessary so only one standard applies to each district. The most flexible standards were carried forward unless noted otherwise. These standards, as well as those for setbacks and heights (discussed below), will be reviewed and may be revised when the dimensional standards section of Installment 2 is drafted.

Setback Requirements

Performance Setback Requirements were not carried forward in this Installment but will be reviewed and may be included when Installment 2 is drafted. Setbacks were consolidated to apply consistently to each individual district, rather than having different requirements for each use in each district. The most flexible standards were generally carried forward unless noted otherwise.

Height Requirements

Likewise, the various height requirements for different uses in a district were consolidated into two categories (primary and accessory structure), rather than having different height requirements for each use. The most flexible standards were generally carried forward unless otherwise noted. Installment 2 will also include a table of permitted exceptions to maximum heights (for example, to accommodate chimneys, flagpoles, steeples, and non-occupied decorative corner features like towers, cupola tops, etc.).

A. AG - Agricultural

1. Purpose⁵

The AG district is intended to accommodate large lot rural residential and agricultural uses in annexed undeveloped areas. It is characterized by open areas of land, large planted areas, and detached residential uses surrounding more densely populated rural and urbanized areas of the community.



⁵ Source: 60.323. Second sentence added.

2. Dimensional Standards⁶

Table 200.03-1 AG Lot and Building Standards

Consolidated based on current standards. Standards will be re-evaluated as a part of Installment 2.

Lot Dimensions (Minimum)

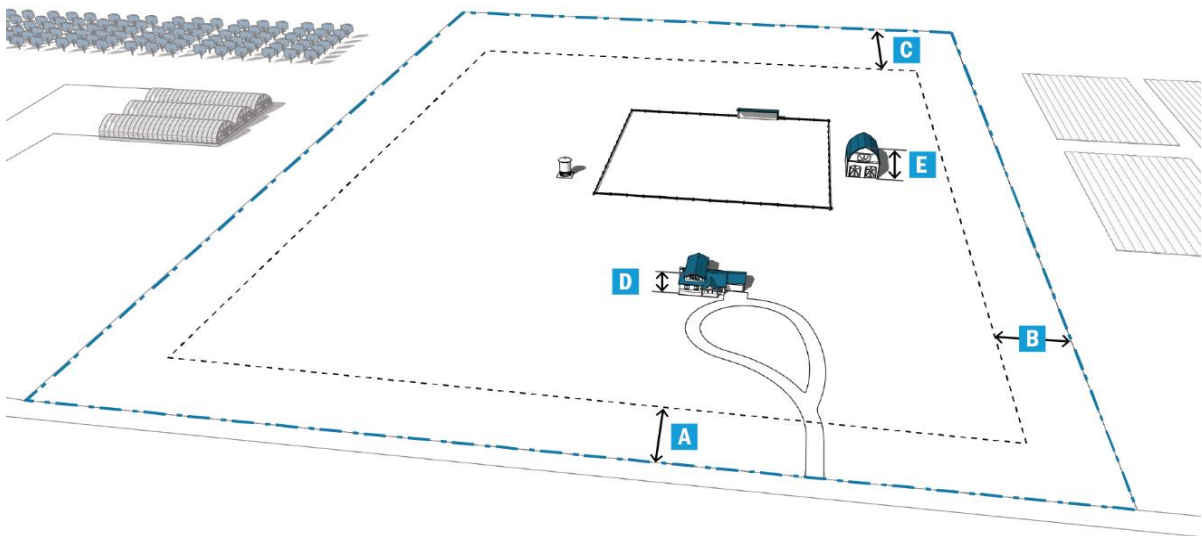
	Lot Area	35 Acres
	Lot Width	60 feet

Building/Structure Setbacks (Minimum in feet)

A	Front	25
B	Side	6
	Minimum Sum of Side Yards	16
C	Rear	25

Building/Structure Height (Maximum in feet)

D	Primary Structure	35
E	Accessory Structure	45 ⁷



⁶ Source: 62.371; 62.372.

⁷ Increased from 25 feet to accommodate barns and equipment sheds.

B. R-1 – Mixed Single Family

1. Purpose⁸

The R-1 district is intended to maintain and promote areas of low residential density where the emphasis is generally on the development of single-family dwellings of various styles. Uses supportive and in character with low-density residential are permitted. This district also provides opportunities for in-fill development in established areas through the efficient use of the existing housing stock and infrastructure.



⁸ Source: 60.323. Consolidated the purpose statements for R-1, R-Sa, and R-1x.

Dimensional Standards⁹

Table 200.03-2 R-1 Lot and Building Standards

Consolidated based on current standards. Standards will be re-evaluated as a part of Installment 2.

Lot Dimensions (Minimum)

Lot Area	5,000 sq. ft. ¹⁰
Lot Width	60 feet

Building/Structure Setbacks (Minimum in feet)

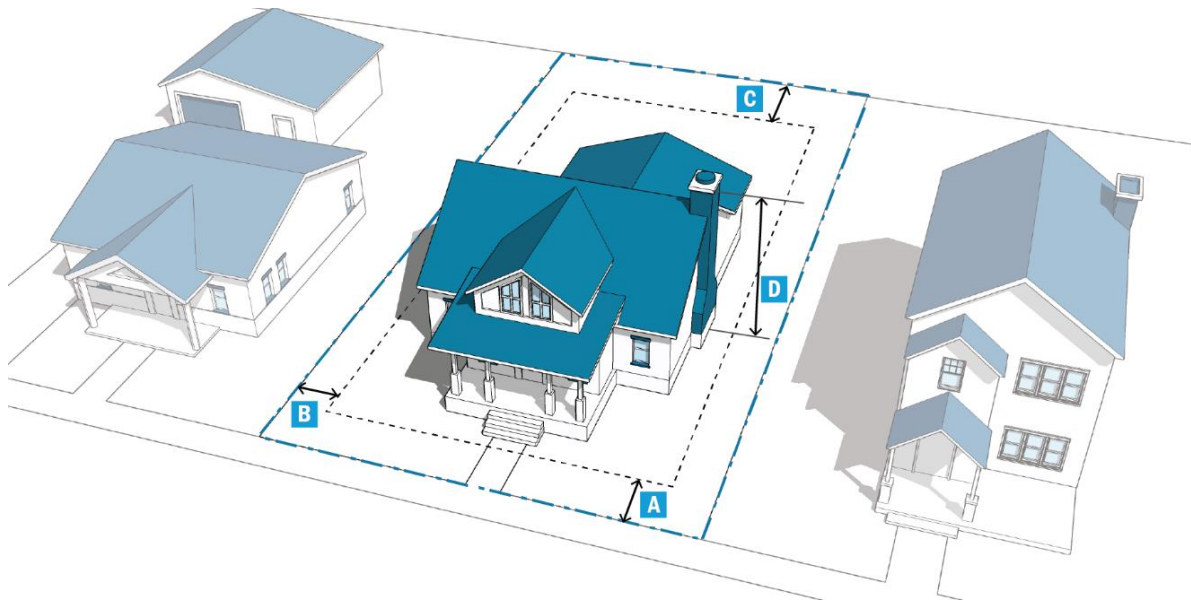
A Front	25
B Side	6
Minimum Sum of Side Yards	16
C Rear	25

Building/Structure Height (Maximum in feet)

D Primary Structure	35
Accessory Structure	15[1] ¹¹

NOTES

¹ 24 feet for Accessory Dwelling Units.



⁹ Source: 62.211; 62.221; 62.222; 62.224; 62.225. The most flexible standards from R-1, R-Sa, and R-1x were carried forward.

¹⁰ Previously 6,000.

¹¹ The maximum height for accessory structures was simplified for all districts with a general rule and one exception for ADUs in most cases.

C. R-2 – Low Density Small Lot

1. Purpose¹²

The R-2 district is intended to maintain and promote areas with a mixture of residential dwelling types that are of an overall low-density or are undergoing a conversion from predominantly single-family detached dwellings to duplexes and other attached dwellings. Certain supportive nonresidential uses, and compatible infill development, consistent with the character of the area are permitted.



¹² Source: 60.323.

2. Dimensional Standards¹³

Table 200.03-3 R-2 Lot and Building Standards

Consolidated based on current standards. Standards will be re-evaluated as a part of Installment 2.

Lot Dimensions (Minimum)

Lot Area	3,000 sq. ft.
Lot Width	40 feet ¹⁴

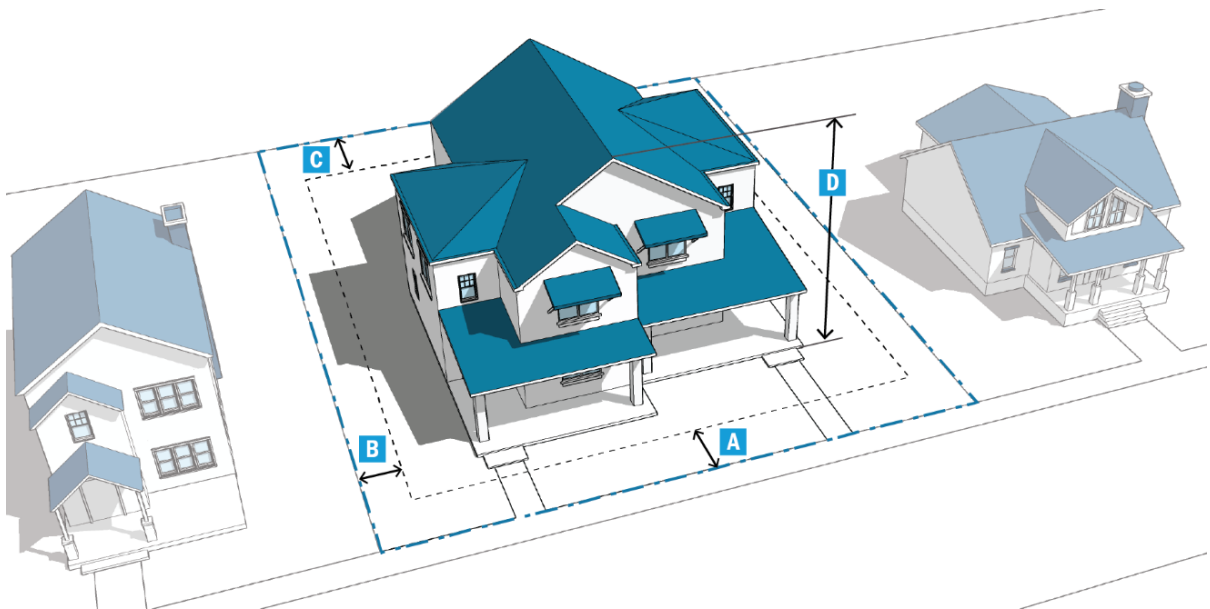
Building/Structure Setbacks (Minimum in feet)

A Front	25
B Side	6
Minimum Sum of Side Yards	16
C Rear	25

Building/Structure Height (Maximum in feet)

D Primary Structure	35
Accessory Structure	15[1]

¹ 24 feet for Accessory Dwelling Units.



¹³ Source: 62.230.

¹⁴ Slightly higher standard than the current Single Family Attached Dwellings (30 feet) to account for vast difference in use standards for certain uses.

D. R-2x – Low Density Residential Infill

1. Purpose¹⁵

The R-2x district is intended to maintain and promote areas with a mixture of residential dwelling types of overall low- to medium-density near the downtown core. This district is established to support residential infill and reinvestment that is compatible with the existing characteristics of development. Certain supportive nonresidential uses may be provided within the district.



¹⁵ Source: 60.323.

2. Dimensional Standards¹⁶

Table 200.03-4 R-2x Lot and Building Standards

Consolidated based on current standards. Standards will be re-evaluated as a part of Installment 2.

Lot Dimensions (Minimum)

Lot Area	2,000 sq. ft. ¹⁷
Lot Width	35 feet ¹⁸

Building/Structure Setbacks (Minimum in feet)

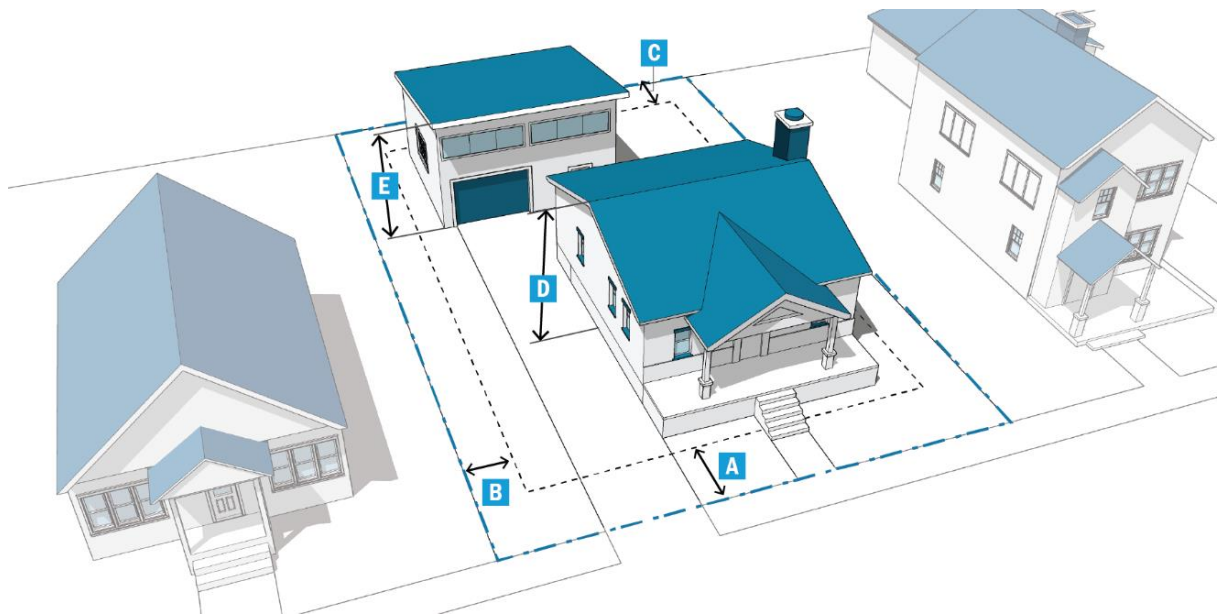
A Front	20
B Side	6
Minimum Sum of Side Yards	16
C Rear	20

Building/Structure Height (Maximum in feet)

D Primary Structure	45 [1]
E Accessory Structure	15 [2]

¹ Buildings above 35 feet in height on a lot abutting R1, R2, or R2x zoning districts are required to be stepped back a minimum of 10 feet in all directions from the exterior walls of the building. Corner lots are exempt from the top floor set back on the sides of the building with street frontage.

² 24 feet for Accessory Dwelling Units.



¹⁶ Source: 62.234; 62.235.

¹⁷ Lowered from 3,000 sq. ft. to accommodate small lots, as noted in the Assessment.

¹⁸ Slightly higher standard than the current Single Family Attached Dwellings (30 feet) to account for vast difference in use standards.

E. R-3 – Medium Density Residential

1. Purpose¹⁹

The R-3 district is intended to maintain and promote predominantly multifamily residential dwellings. It is appropriate for medium-density areas or existing low-density areas where there is a need to encourage higher-density redevelopment. Certain supportive nonresidential uses and civic uses, consistent with the character of the area are permitted.



¹⁹ Source: 60.323.

2. Dimensional Standards²⁰

Table 200.03-5 R-3 Lot and Building Standards

Consolidated based on current standards. Standards will be re-evaluated as a part of Installment 2.

Lot Dimensions (Minimum)

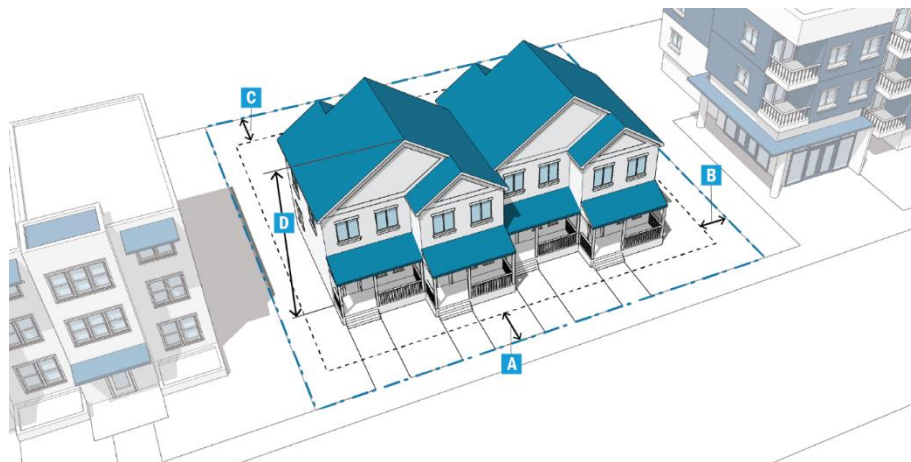
Lot Area	3,500 sq. ft. ²¹
Lot Width	30 feet

Building/Structure Setbacks (Minimum in feet)

A Front	25
B Side	6
Minimum Sum of Side Yards	16
C Rear	25

Building/Structure Height (Maximum in feet)

D Primary Structure	48 ²²
Accessory Structure	25



3. Additional District Standards²³

No permitted or approved commercial use created, approved, or expanded after the effective date of this UDC shall have a gross floor area greater than 2,500 square feet, or 50 percent of the gross floor area of the ground floor of a multifamily dwelling building in which it is located, whichever is greater.

²⁰ Source: 62.241; 62.242.

²¹ Slightly higher than the most lenient lot size standard (3,000 for Single Family Attached Dwellings).

²² Increased from 35 feet to allow for increased height from R-1 through R-4 districts.

²³ New provision to avoid the creation of traffic generating destination (rather than neighborhood-serving) uses, while avoiding making existing larger facilities non-conforming.

F. R-4 – High Density Residential

1. Purpose²⁴

The R-4 district is intended to maintain and promote multifamily residential of the highest intensity along with certain supportive commercial and non-residential and civic uses of similar intensity.



²⁴ Source: 60.323.

2. Dimensional Standards²⁵

Table 200.03-6 R-4 Lot and Building Standards

Consolidated based on current standards. Standards will be re-evaluated as a part of Installment 2.

Lot Dimensions (Minimum)

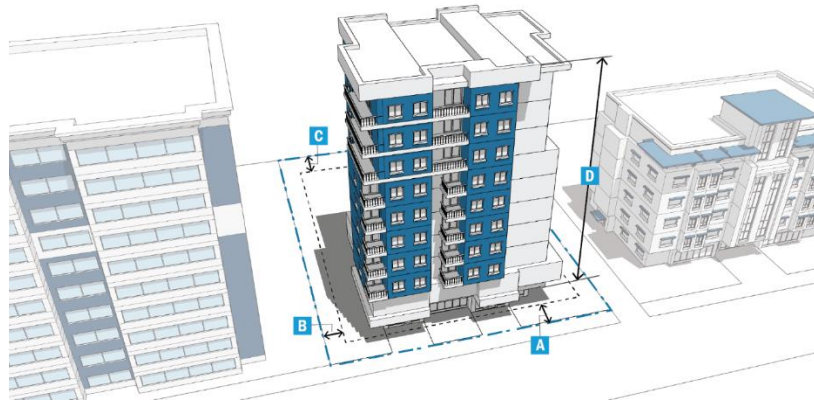
Lot Area	6,000 sq. ft. ²⁶
Lot Width	60 feet ²⁷

Building/Structure Setbacks (Minimum in feet)

A Front	15
B Side	10
Minimum Sum of Side Yards	None
C Rear	8

Building/Structure Height (Maximum in feet)

D Primary Structure	60 ²⁸
Accessory Structure	25



3. Additional District Standards²⁹

No permitted or approved commercial use created, approved, or expanded after the effective date of this UDC shall have a gross floor area greater than 2,500 square feet, or 50 percent of the gross floor area of the ground floor of a multifamily dwelling building in which it is located, whichever is greater.

²⁵ Source: 62.251.

²⁶ Slightly higher than the lowest lot area requirement (5,500 sq. ft. for Single Family Detached Dwellings).

²⁷ Slightly higher than the lowest lot width requirement (50 feet for Single Family Detached Dwellings).

²⁸ Changed from a variety of height allowances that allowed up to 13 floors for multi-family.

²⁹ New provision to avoid the creation of traffic generating destination (rather than neighborhood-serving) uses, while avoiding making existing larger facilities non-conforming.

G. MX-N – Mixed-Use Neighborhood Scale³⁰

1. Purpose³¹

The MX-N district is intended to maintain and provide for a mix of low-intensity commercial and residential uses in areas adjacent to more traditional residential districts. Typically, on corners near or at the edges of residential districts, the district contributes to the vitality and health of the community by providing walking, biking, and transit access to neighborhood-scale commercial areas and supporting pedestrian-friendly uses and design.



³⁰ Consolidates the current B-2 and B-5 districts.

³¹ Source: 60.323. Consolidated the current B-2 and B-5 purpose statements.

2. Dimensional Standards³²

Table 200.03-7 MX-N Lot and Building Standards

Consolidated based on current standards. Standards will be re-evaluated as a part of Installment 2.

Lot Dimensions (Minimum)

	Lot Area	None
	Lot Width	None

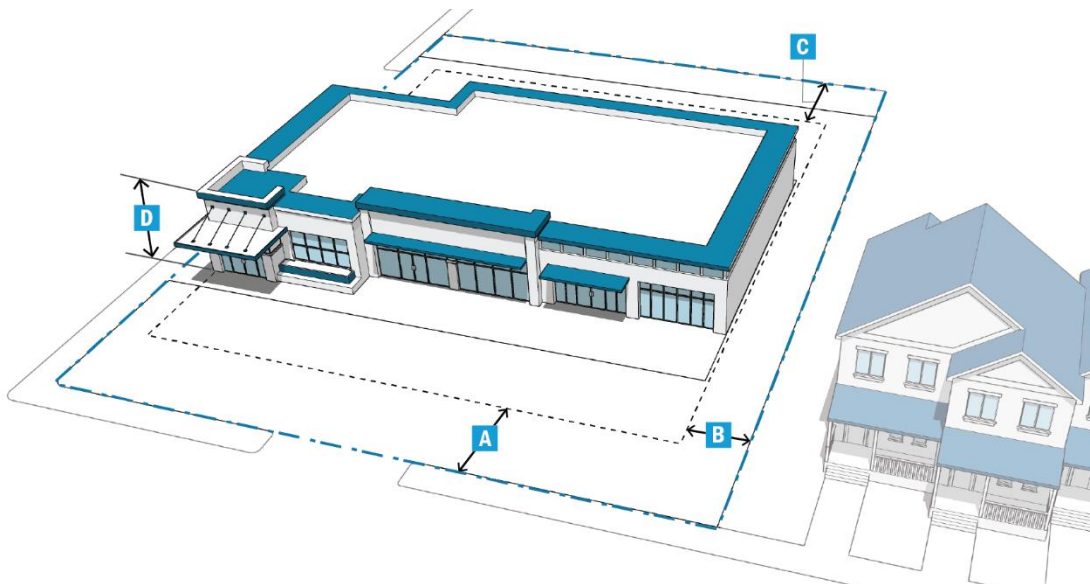
Building/Structure Setbacks (Minimum in feet)

A	Front	15
B	Side	5 ³³
	Minimum Sum of Side Yards	10
C	Rear	5

Building/Structure Height (Maximum in feet)

D	Primary Structure	40
	Accessory Structure	15 [1]

¹ 24 feet for Accessory Dwelling Units.



³² Source: 62.317; 62.331. The most lenient standards from B-2 and B-5 were carried forward. Standards restricting the size of industrial uses were not carried forward. Instead, that issue is addressed by only allowing low-intensity industrial uses in this district.

³³ Slightly higher side and rear setback requirements than the current B-2 (0 feet) to consolidate the B-5 requirements (15 feet).

3. Additional District Standards

a. Maximum Size of Non-Residential Uses³⁴

- 1) No permitted or approved non-residential use created, approved, or expanded after the effective date of this UDC shall have a gross floor area greater than 5,000 square feet.
- 2) Facilities occupied by non-residential uses created, approved, or expanded before the effective date of this UDC, may continue to be occupied by any permitted or approved conditional use, and shall not be considered nonconforming uses and structures because they occupy areas larger than those permitted by Subsection 1) above.

b. Access Requirements for Public, Institutional, and Civic Uses³⁵

Uses shall not have vehicle access points from or channel a majority of the traffic generated by the use onto a Local residential street.

³⁴ New provision to avoid the creation of traffic generating destination (rather than neighborhood-serving) uses, while avoiding making existing larger facilities non-conforming.

³⁵ Source: 62.936. These access standards were simplified. Two standards related to limiting traffic on residential areas and street design for frontage roads were removed. Similar access requirements appeared throughout the use-specific standards. These changes were made to all those standards.

H. MX-S – Mixed-Use Street-Oriented³⁶

1. Purpose³⁷

The MX-S district is intended to maintain and promote low to mid-intensity commercial uses that are located along streets near or at the edges of residential zone districts. This district contributes to the vitality and health of the community by providing walking, biking, and transit access to local commercial areas and supporting pedestrian-friendly uses and design.



³⁶ Updates the current B-1 district.

³⁷ Source: 60.323.

2. Dimensional Standards³⁸

Table 200.03-8 MX-S Lot and Building Standards

Consolidated based on current standards. Standards will be re-evaluated as a part of Installment 2.

Lot Dimensions (Minimum)

	Lot Area	None
	Lot Width	None

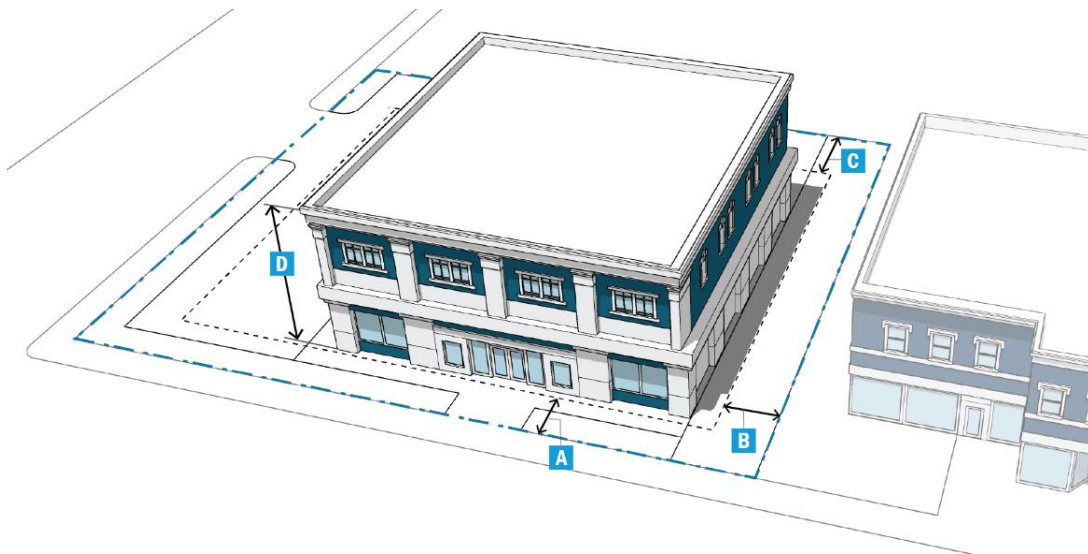
Building/Structure Setbacks (Minimum in feet)

A	Front	15
B	Side	None
	Minimum Sum of Side Yards	None
C	Rear	None

Building/Structure Height (Maximum in feet)

D	Primary Structure	40 ³⁹
	Accessory Structure	15 [1]

¹ 24 feet for Accessory Dwelling Units.



³⁸ Source: 62.311. Standards restricting the size of industrial uses were not carried forward. Instead, that issue is addressed by only allowing low-intensity industrial uses in this district.

³⁹ Increased from 30 ft. for internal consistency.

I. MX-C – Mixed-Use Center⁴⁰

1. Purpose

The MX-C district is intended to provide for pedestrian-friendly areas of medium-density residential development and compatible nonresidential uses such as lodging, offices, retail, civic and community, and accessory uses. Development shall be at a walkable scale that is compatible with surrounding residential neighborhoods.



⁴⁰ New district to further the goals in Plan2Succeed. Picture and drawing may change pending Installment 2 edits.

2. Dimensional Standards

Table 200.03-9 MX-C Lot and Building Standards

Consolidated based on current standards. Standards will be re-evaluated as a part of Installment 2.

Lot Dimensions (Minimum)

	Lot Area	None
	Lot Width	None

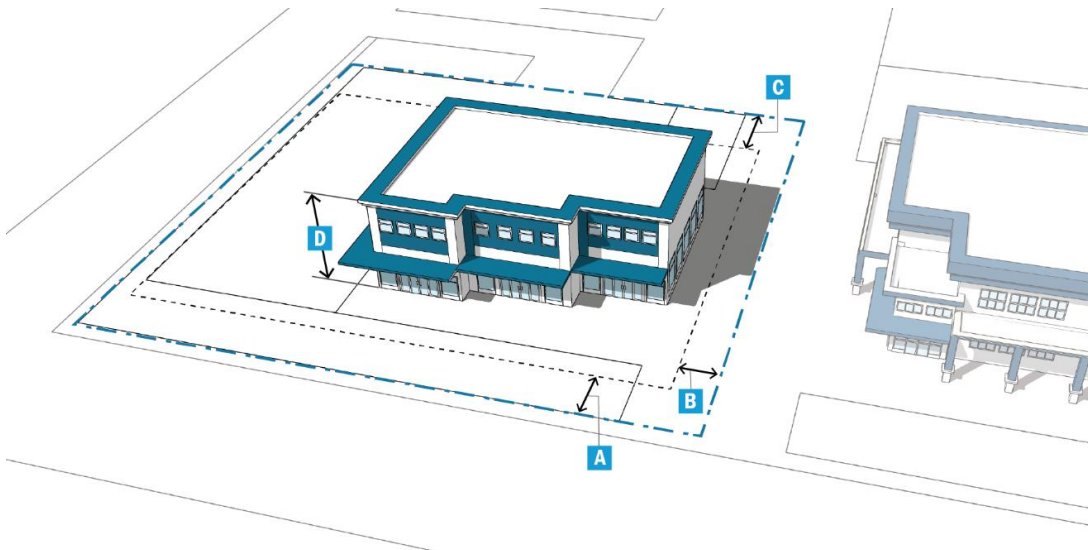
Building/Structure Setbacks (Minimum in feet)

A	Front	None
B	Side	None
	Minimum Sum of Side Yards	None
C	Rear	7

Building/Structure Height (Maximum in feet)

D	Primary Structure	40
	Accessory Structure	15 [1]

¹ 24 feet for Accessory Dwelling Units.



J. MX-G – Mixed-Use General⁴¹

1. Purpose⁴²

The MX-G district is intended to provide for areas of concentrated mid- to high-intensity commercial development, oriented toward either a street frontage or an intersection location where transit is not available, or service is infrequent. Uses in the district are generally sized and intended to serve a large number of residents in the entire region or community.



⁴¹ Based on current B-4 district and intended to serve as a general mixed-use zone district (not scaled-down to provide neighborhood-scale services, nor intended to attract more intensity, transit-oriented, or downtown scale development).

⁴² Source: 60.323.

2. Dimensional Standards⁴³

Table 200.03-10 MX-G Lot and Building Standards

Consolidated based on current standards. Standards will be re-evaluated as a part of Installment 2.

Lot Dimensions (Minimum)

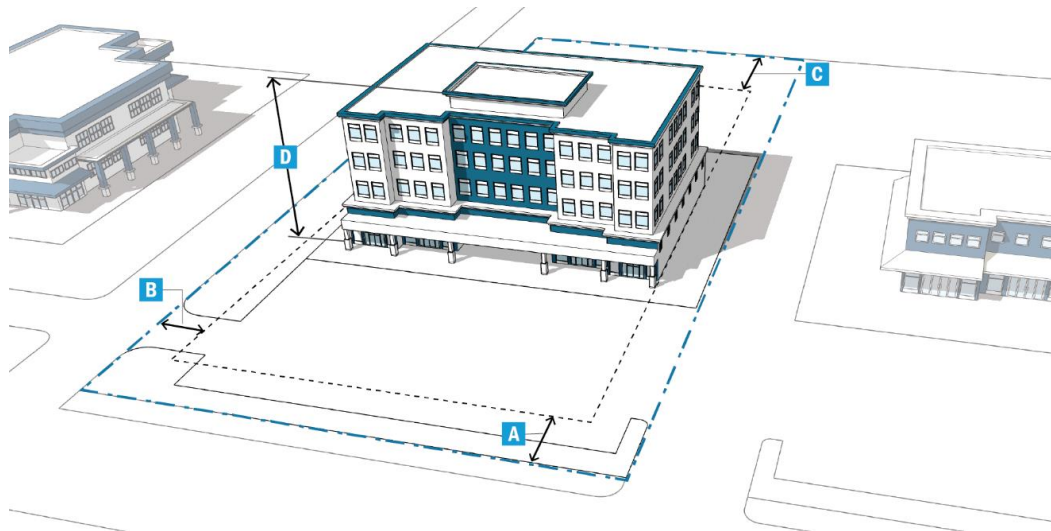
	Lot Area	None
	Lot Width	None

Building/Structure Setbacks (Minimum in feet)

A	Front	15
B	Side	None
	Minimum Sum of Side Yards	None
C	Rear	None

Building/Structure Height (Maximum in feet)

D	Primary Structure	50 ⁴⁴
	Accessory Structure	25



3. Additional District Standards⁴⁵

- a. Industrial uses shall not occupy the ground floor street frontage of any building;
- b. No more than 50 percent of the gross floor area of any building shall be occupied by mechanical equipment or machinery engaged in manufacturing, finishing, or assembling activities (including space occupied by the machine operators); and
- c. Retail, wholesale, or office activities which are part of the business operation are acceptable uses in that area of the building occupying the street level frontage.

⁴³ Source: 62.321.

⁴⁴ Increased from 40 to allow more intense development than is permitted in the MX-N, MX-S, or MX-C districts.

⁴⁵ Source: 62.384.

K. MX-I – Mixed-Use Institutional⁴⁶

1. Purpose⁴⁷

The MX-I district is intended to accommodate institutional, civic, non-profit, and other campus types uses involving multiple related buildings such as universities and colleges, medical centers, resort complexes, and research centers, regardless of public or private ownership.



⁴⁶ Based on the MRD district but broadened to serve as a district for a wider variety of campus character uses.

⁴⁷ The purpose statement for MRD found in 60.325 was edited to align with the new intent of the MX-I district.

2. Dimensional Standards⁴⁸

Table 200.03-11 MX-I Lot and Building Standards

Consolidated based on current standards. Standards will be re-evaluated as a part of Installment 2.

Lot Dimensions (Minimum)

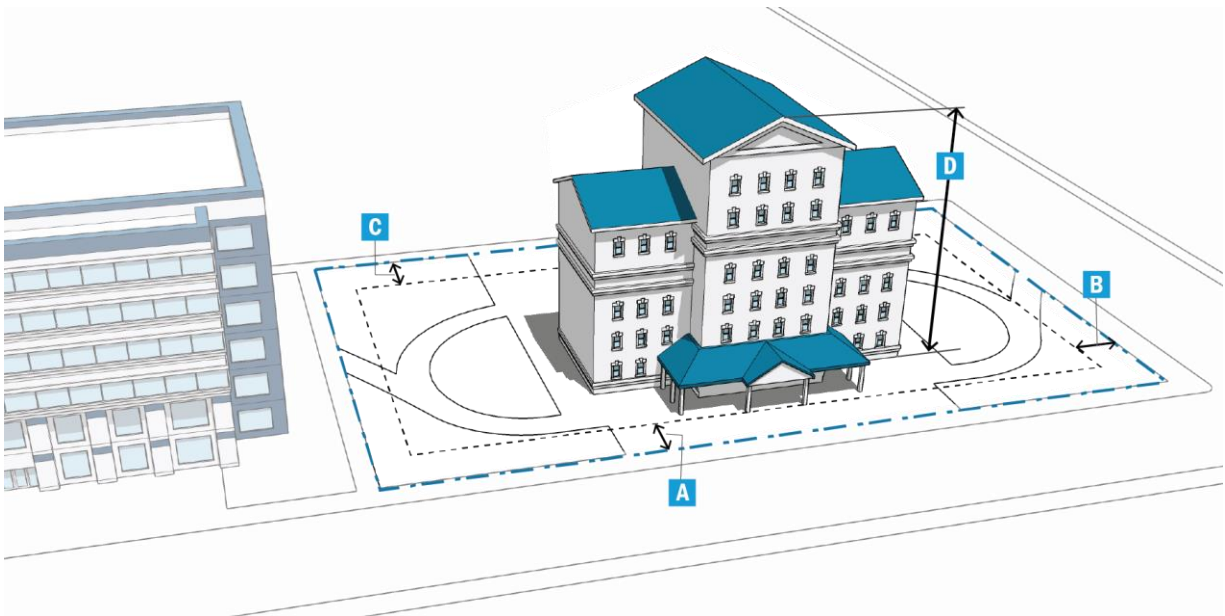
Lot Area	6,000 sq. ft.
Lot Width	None

Building/Structure Setbacks (Minimum in feet)

A Front	15
B Side	10
Minimum Sum of Side Yards	None
C Rear	8

Building/Structure Height (Maximum in feet)

D Primary Structure	50 ⁴⁹
Accessory Structure	25



⁴⁸ Source: 62.361.

⁴⁹ Increased from current 35 feet to accommodate the wide range of buildings often included in campus-type development.

L. MX-T – Transit Oriented Development⁵⁰

1. Purpose⁵¹

The MX-T district is intended to provide opportunities for transit-supportive and transit oriented development (TOD). It requires intensities and patterns of development that support vibrant pedestrian activity, promote the use of transit, and discourage land uses and types of development that could interfere with transit ridership. The MX-T district has three subdistricts as described below.

a. Purpose of Corridor Subdistrict⁵²

The MX-T Corridor subdistrict is the least intensive of the three subdistricts. It is intended for areas adjacent to the transit stations and generally extends no more than one-quarter mile from the station. It includes high intensity businesses and high-density residential uses. Ground floor commercial uses will occur along most street frontages.

b. Purpose of Node Subdistrict⁵³

The MX-T Node subdistrict is the medium-intensity subdistrict. It is intended to create a transition in building height, development density, and range of uses between the Corridor subdistrict and the adjacent non-TOD developments and neighborhoods. This subdistrict contains mixed use development but is primarily characterized by residential uses.

c. Purpose of Village Subdistrict⁵⁴

The MX-T Village subdistrict is the highest-intensity subdistrict and is intended for areas that are in close proximity to a City park-and-ride facility. It permits taller and longer buildings than the other MX-T subdistricts in order to accommodate large parking garages enclosed by other uses, as well as freestanding residential and supporting commercial uses.



⁵⁰ Carries forward the TOD district adopted in 2018, with changes as noted.

⁵¹ Source: 60.320. Edited for brevity.

⁵² New subdistrict purpose statement.

⁵³ New subdistrict purpose statement.

⁵⁴ New subdistrict.

2. Dimensional Standards⁵⁵

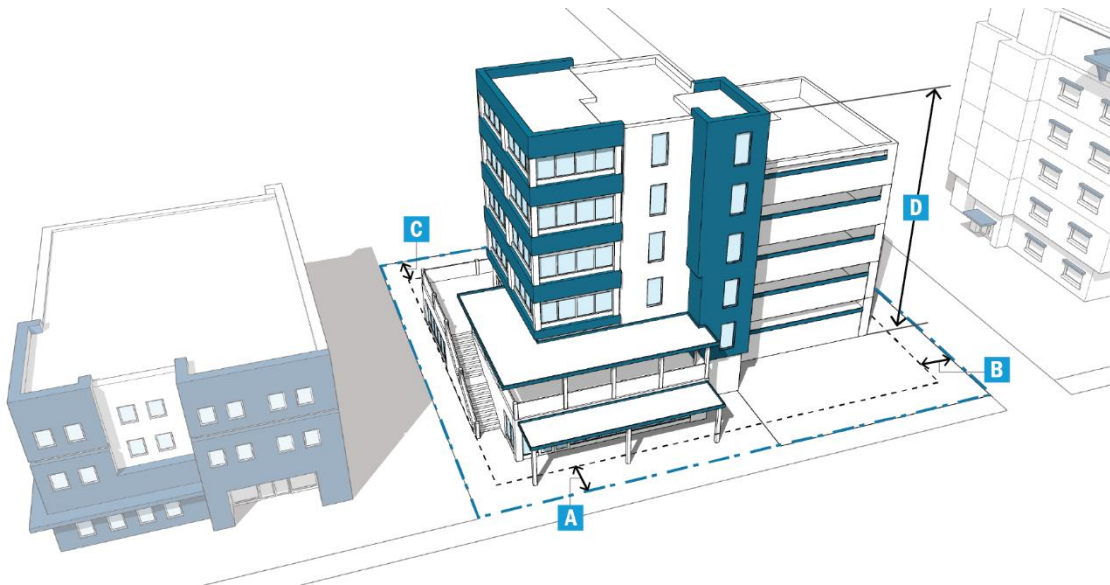
Table 200.03-12 MX-T Lot and Building Standards

Consolidated based on current standards. Standards will be re-evaluated as a part of Installment 2.

Subdistricts	Corridor	Node	Village
Lot Dimensions (Minimum)			
Lot Area	None	None	None
Lot Width	None	None	None
Building/Structure Setbacks (Minimum in feet)⁵⁶			
A Front [1]	5	5	5
B Side	5	5	5
Minimum Sum of Side Yards	10	10	5
C Rear	5	5	5
Building/Structure Height and Length (Maximum in feet)			
D Primary Structure	70	60	75
Accessory Structure ⁵⁷	30	30	30
Building Length	150	150	250

NOTES

¹ A front yard or side street side yard equal in width to the front yard required in the adjacent residential zoning districts shall be provided on any lot abutting a side lot line of the R-1 or R-2 district.



⁵⁵ Source: 62.336.

⁵⁶ These standards consolidate setbacks standards that vary depending on whether the use is residential or non-residential. These standards are tailored to be a middle-ground in between those sets of standards.

⁵⁷ New accessory building heights included for internal consistency.

3. Additional District Standards⁵⁸

a. Building Placement

At least 65 percent of the first floor of the front facade of each primary building shall be located not more than 10 feet from each front lot line. In cases where a recorded easement requires a larger set-back, at least 65 percent of the first floor of the front facade of each primary building shall be located no further than the minimum distance required by the recorded easement.

b. Building Design

- 1) Setback areas between a public or private street (excluding alleys) and the structure shall be occupied with pedestrian oriented space in compliance with [insert x-ref in later installment].
- 2) Each street-facing facade of a building with a horizontal length greater than 60 feet shall incorporate architectural features that visually interrupt the wall plane to reduce the perceived massing and scale of the building and provide a better pedestrian experience. Street-facing building facades with a horizontal length between 60 and 89 feet shall incorporate at least one of the following elements; street-facing building facades between 90 and 119 feet in horizontal length shall incorporate at least two of the following elements; and street-facing building facades over 120 feet must incorporate at least three of the following elements. Required architectural elements shall be spaced no more than 60 feet apart. Buildings may choose to use a single element more than once or may choose to use different elements listed below to meet this requirement. Acceptable architectural elements for meeting this standard include:
 - (a) Differences in roof form (e.g. flat or sloped);
 - (b) A change in parapet height of at least two vertical feet;
 - (c) Horizontally oriented recesses into the building façade plane at least eight inches deep and at least eight inches wide (this element may be installed along the entire building façade, but if so installed shall only count as one of the required elements on any street-facing building façade longer than 60 feet);
 - (d) Horizontally oriented projections at least eight inches in vertical height extending at least eight inches outward from the building façade plane; and extending along at least 30 horizontal feet of the building façade (this element may be installed along the entire building façade, but if so installed shall only count as one of the required elements on any street-facing building façade longer than 60 feet);
 - (e) Pilasters extending outward at least eight inches from the building façade plane and at least eight inches wide, that have a height equal to at least 80 percent of the building façade height;

⁵⁸ Source: 62.338. Some standards here may be consolidated with general development standards as a part of Installment 2.

- (f) Vertically oriented recesses extending at least eight inches into the building façade plane, and at least eight inches wide, that have a height equal to at least 80 percent of the façade height;
- (g) Visually significant changes in texture and/or color of wall surfaces, as determined by the Director;
- (h) Ground level arcades or awnings extending for a horizontal distance of at least 20 feet;
- (i) Second floor balconies on at least 50 percent of the residential units on the building façade;
- (j) Cornices at least eight inches in vertical height extending at least eight inches outward from the building façade and extending along at least 30 horizontal feet of the building façade (this element may be installed along the entire building façade, but if so installed shall only count as one of the required elements on any street-facing building façade longer than 60 feet); or
- (k) Pedestrian entries designed so that the doors are recessed at least two feet from the building façade or project at least two feet outward from the building façade.

c. Minimum Building Height

- 1) In the MX-T Corridor subdistrict, portions of new primary structures located within 100 feet of N. and S. Broadway Ave, 2nd St SW., and 4th St SE shall be a minimum of 25 feet in height.
- 2) In the MX-T Node and Village subdistricts, portions of new primary structures located within 100 feet of N. and S. Broadway Ave, 2nd St SW, and 4th St. SE/Collegeview Rd. shall be a minimum of 40 feet in height.

d. Bonus Building Height⁵⁹

- 1) Notwithstanding the maximum building height listed in Table 200.03-12 MX-T Lot and Building Standards, projects located in those areas indicated as Height Bonus Available on the MX-T District Map may exceed the maximum building height as shown in the following table, except as stated in Subsections 2) or 3) below.⁶⁰

Element Provided	Bonus
At least 20 percent of the gross floor area is residential	12 additional feet in height
At least 30 percent of the gross floor area is residential	16 additional feet in height
At least 40 percent of the gross floor area is residential	22 additional feet in height

⁵⁹ This may be integrated with other height incentives when installment 2 is drafted.

⁶⁰ Further clarification on what additional or different bonus the SOM report suggests might be appropriate in the MX-T Village subdistrict is required.

- 2) No height bonus may result in a maximum building height exceeding 90 feet, except in the MX-T Village subdistrict, where maximum the maximum heights including bonuses shall be 110 feet.
- 3) No height bonus may result in a building located in a neighborhood protection area exceeding the maximum building height permitted by Section 60.200.030L.3.I, *Neighborhood Protection Standards*.

e. Building Entrances

- 1) Each primary structure shall have at least one pedestrian entrance on each façade facing a public right-of-way. If the lot has frontage on those portions of N. and S. Broadway, 2nd St SW, 4th St SE/Collegeview Rd. SE, 12th St. SE or 3rd Ave. SE, the required entrance shall face those streets. If the lot does not have frontage on the pedestrian entrance shall face the front lot line.
- 2) If there are multiple ground-floor tenant spaces facing a public right-of-way, each ground floor tenant space with 25 feet of frontage or more shall have at least one pedestrian entrance facing that public right-of-way. As an exception to this standard, a maximum of two abutting ground floor tenants may share a single pedestrian entrance facing that public right-of-way.
- 3) Each required pedestrian entrance shall open directly to the outside and have direct access to the adjacent sidewalk without requiring pedestrians to pass through a garage, parking lot, or a non-pedestrian area located between the pedestrian entrance and the street or right-of-way.

f. Windows

- 1) Each façade of a primary building facing a public right-of-way shall have transparent windows or other transparent glazed area covering:
 - (a) 65 percent or more of the ground floor façade area, as measured between three and eight feet above sidewalk grade; and
 - (b) 30 percent or more of each floor level of the façade above the ground floor, as measured between three and eight feet above each floor level.
- 2) Required ground floor window or glazed areas shall have a visible light transmittance ratio of 0.6 or higher and shall not include reflective or heavily tinted windows.

g. Sidewalks, Pedestrian Circulation, and Vehicular Connectivity

- 1) The internal vehicular, bicycle, and pedestrian circulation systems ("circulation systems") of each development shall be designed to allow vehicular, bicycle, and pedestrian cross-access between the circulation systems of the proposed development and the circulation systems of existing or allowable future development on adjoining lots. The Director may adjust or waive this requirement if

the Director determines that it is unlikely that the cross-access provisions will be available on the adjoining lot within a reasonable period of time.

- 2) Sidewalks shall be provided on both sides of the street, and shall comply with the following standards:
 - (a) On property fronting N. or S. Broadway, SW. 2nd. St, or SE. 4th St./Collegeview Dr. SE, 12th St. SE, or 3rd Ave. SE, sidewalks shall be a minimum of 10 feet in width, and a planting strip at least five feet in width shall be located between the sidewalk and the street.
 - (b) On property fronting any street other those listed in Subsection (a) above, sidewalks shall be a minimum of seven feet in width, and a planting strip at least five feet in width shall be located between the sidewalk and the street.
 - (c) At least one walkway shall be provided from an adjacent sidewalk to each building entrance.
 - (d) Where a sidewalk, trail, or other walkway crosses a street, driveway, drive aisle, or parking lot, the crossing shall be clearly marked with a change in paving material, color, or height, decorative bollards, or similar elements.⁶¹
- 3) Where a lot or development site includes more than one primary structure, an accessible pedestrian walkway at least five feet in width shall be provided between at least one accessible pedestrian entrance in each primary structure.

h. Bicycle Parking⁶²

Bicycle parking shall be provided at a rate of one per five required automobile parking spaces, up to 10 bicycle spaces, and then at a rate of one per 20 automobile parking spaces, with a minimum of five bicycle parking spaces.

i. Pedestrian and Site Design Standards⁶³

- 1) All developments in the MX-T District shall comply with the Pedestrian and Site Design Standards in [insert x-ref in later installment - Sections 63.270 through 63.275] with the exception of the following specific standards:
 - (a) [insert x-ref in later installment - 63.272, Subdivisions 2 and 3];
 - (b) [insert x-ref in later installment - 63.273, Subdivisions 3 and 5]; and
 - (c) [insert x-ref in later installment - 63.274, Subdivision 4].
- 2) Where the standards of the MX-T District are in conflict with the Pedestrian and Site Design Standards, the provisions of this MX-T District shall govern.

j. Consolidation or Subdivision of Existing Lots

No consolidation of two or more lots existing on the [effective date of original provisions] into a parcel of one acre or larger shall be approved, and no subdivision of lots existing on the [effective date of original provisions] shall be approved, unless the applicant has submitted a General Development Plan demonstrating that a

⁶¹ This may become a general standard for parking lot crosswalks when installment 2 is drafted.

⁶² This requirement will be re-evaluated as a part of Installment 2. It will likely be converted into a table as well.

⁶³ This section will be reviewed and revised when the current Pedestrian and Site Design Standards are updated and incorporated in to the UDC structure as part of Installment 2.

high level of pedestrian, bicycle, and motor vehicle connectivity will be maintained through the consolidated or subdivided parcel or parcels, and the City has approved that plan as consistent with the goals of the comprehensive plan and with any other approved connectivity plans for abutting or nearby properties.

k. General Development Plan Required

- 1) Each property located in a MX-T Node or MX-T Village subdistrict that contains more than 10 acres of site area (taken individually or with adjacent parcels in common or related ownership) shall obtain approval of a General Development Plan prior to approval of a site plan or issuance of a building permit for construction of a new primary structure.
- 2) The General Development Plan required by Subsection I.1 above shall cover either:
 - (a) All of the property in the MX-T Node or Village, or
 - (b) All of the property in common or related ownership within the MX-T Node or Village, or
 - (c) All of the property in common or related ownership within a portion of the MX-T Node bounded that is separated from other portions of the MX-T Node or Village by arterial or collector streets.
- 3) The General Development Plan required by Subsection I.1 shall designate the following:
 - (a) One pedestrian-oriented street or walkway system extending from the nearest transit stop boundary no further than 300 feet that is located and designed to provide convenient accessible pedestrian access to the transit stop without requiring pedestrians to cross or walk along an arterial or collector street.
 - (b) If a city-designated park and ride is included in the MX-T Node or MX-T Village, the General Development Plan shall include a street providing automobiles convenient access to that park and ride from collector or arterial streets within or adjacent to the MX-T District without crossing the designated pedestrian-oriented street or walkway system.

I. Neighborhood Protection Standards⁶⁴

Applicability

These neighborhood protection standards apply to those portions of all properties that are:

- (a) Located (a) within a MX-T Corridor subdistrict and (b) further than 250 feet from the nearest right-of-way line of N. or S. Broadway, SW. 2nd St., or SE. 4th St./Collegeview Rd., and (c) abutting R-1 or R-2 zoned property; or
- (b) Located within a MX-T Node or MX-T Village subdistrict and within 100 feet of R-1 or R-2 zoned property other than a lake.

⁶⁴ These standards are carried forward from the current TOD district, but will be made more generally applicable to areas where higher intensity Mixed Use abut lower density neighborhoods when Installment 2 is drafted.

Standards

(c) Height

No primary or accessory building shall exceed a maximum height of 35 feet.

(d) Landscaping

The property line(s) adjacent to the R-1 or R-2 zoned property shall include a bufferyard at least equal in design, opacity, and buffering capacity to a Bufferyard Class "F" as regulated in Article 63.265, Definition of Bufferyard Options.⁶⁵

(e) Parking

No drive-through lane shall be located between a primary structure and a property line abutting or across a public right-of-way from a lot containing a single- or two-family dwelling.

(f) Lighting

The maximum height of any light pole or lighting installed on any primary or accessory structure shall not exceed 15 feet.

⁶⁵ This process will be reviewed as a part of installment 2.

M. MX-D – Mixed Use Downtown⁶⁶

1. Purpose⁶⁷

The MX-D district is intended to provide for the highest intensity of commercial, residential, and institutional development within the City of Rochester, resulting in a mixture of uses that optimize public facilities and contribute to a vibrant downtown area. The MX-D district has three subdistricts as described below:

a. Purpose of Fringe Subdistrict

The MX-D Fringe subdistrict is intended for less intensive commercial and service uses that are necessary or tend to support and enhance the activities within the Central Business subdistrict.

b. Purpose of Medical Subdistrict

The MX-D Medical subdistrict is intended to preserve and enhance medical facilities and major public and quasi-public uses, along with related supporting uses, in the vicinity of the St. Mary's Hospital and medical campus.

c. Purpose of Business Subdistrict

The MX-D Business subdistrict is intended to promote the goals of the Downtown Rochester Master Plan. It is intended for the highest intensity of concentrated and integrated retail, financial, office, service, and entertainment uses, with an emphasis on pedestrian amenities.



⁶⁶ Carries forward the current CDC district with changes as noted, except that the current CDC Residential subdistrict has been consolidated with the R-4 district.

⁶⁷ Source: 60.322. Purpose statements were edited for consistency and clarity.

2. Dimensional Standards⁶⁸

Table 200.03-13 MX-D Lot and Building Standards

Consolidated based on current standards. Standards will be re-evaluated as a part of Installment 2.

Subdistricts		Fringe	Medical	Business
Lot Dimensions (Minimum)				
A	Lot Area	None	None	None
B	Lot Width	None	None	None
Building/Structure Setbacks (Minimum in feet)				
C	Front [1]	None	None	None
D	Side	None	None	None
E	Minimum Sum of Side Yards	None	None	None
F	Rear	None	None	None
Building/Structure Height (Maximum in feet)				
G	Primary Structure	None	None	None
H	Accessory Structure	None	None	None

NOTES

¹ A front yard or side street side yard equal in width to the front yard required in the adjacent residential zoning districts shall be provided on any lot abutting a side lot line of the R-1 or R-2 district.

3. Procedural Requirements in the MX-D District⁶⁹

City Council must approve uses in the MX-D district, despite the permission listed in the Allowed Uses Table, when the following conditions are found to exist:

- The proposed development will exceed the maximum floor area ratio established for the MX-D district (six in the Business subdistrict, 4 in the Fringe subdistrict, 1.5 in the Medical subdistrict) where the project is located.
- The development involves major changes in the existing public infrastructure, including such items as street closings, trunk sewer/water/steam line relocations, or new access points on any arterial or expressway.
- The off-street parking requirements for the development, when calculated at the rates applicable to be used in the Fringe subdistrict, would equal or exceed five percent of the existing supply of off-street parking spaces in the district.
- Any expansion in floor area totaling more than 50 percent of the existing floor area of the building that results in the entire development exceeding the floor area limits for the district.
- Any development adjacent to publicly owned land or facilities (other than a right-of-way) that involves changes to these facilities in order to allow for completion of the project

⁶⁸ Source: 62.411; 62.421; 62.431. Differentiations in height or density for the three subdistricts in this district in order to require tapering down of building heights from the downtown to adjacent neighborhoods may be added. Further clarification on why the subdistricts exist if the dimensional and height standards are almost identical among all three is required.

⁶⁹ Source: 62.451. Edited for consistency and clarity. These provisions will be reviewed again as part of installment 3.

N. BP – Business Park⁷⁰

1. Purpose⁷¹

The BP district is intended to accommodate business park development with high levels of landscaping, a general park-level and individual site-level maximum rate of trip generation, restrictions on outside storage, signs, and lighting, and requirements for connectivity with the intent that such development will be compatible with and connected to adjacent residential development.



⁷⁰ Carries forward the current M3 zone district, with changes as noted.

⁷¹ Source: 60.323. Removed 'constraints on grading and substantial land alteration.'

2. Dimensional Standards⁷²

Table 200.03-14 BP Lot and Building Standards

Consolidated based on current standards. Standards will be re-evaluated as a part of Installment 2.

Lot Dimensions (Minimum)

Lot Area	20 acres [1]
Lot Width	None

Building/Structure Setbacks (Minimum in feet)

A Front	25
B Side	None
Minimum Sum of Side Yards	None
C Rear	10 [2]

Building/Structure Height (Maximum in feet)

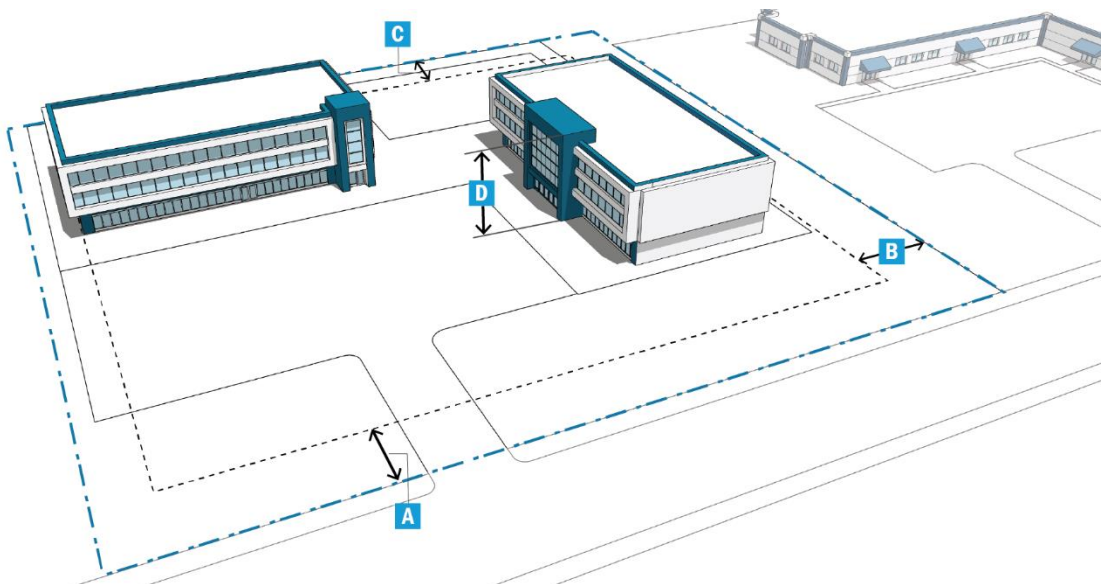
D Primary Structure	None [3]
Accessory Structure	None

NOTES

¹ Except for sites that are bounded on all sides by arterial or higher level streets, streams, or other topographic constraints, existing development, land already included in an approved General Development Plan, or permanent open space that limits the inclusion of other abutting lands.

² Rear Yard may be reduced to 0 feet when abutting a railroad.

³ If within 100⁷³ feet of a residential district, then the maximum height shall be 35 feet for all structures.



⁷² Source: 62.3551.

⁷³ Applicability distance reduced from 200 feet, because 100 feet is often adequate to mitigate height distances.

3. **Additional District Standards⁷⁴**

a. Light Industrial Uses

Only those light industrial uses that are not required by state or federal regulations to obtain state or federal level air quality permits are permitted uses in the BP district.

b. Exterior Storage

Exterior storage areas must be screened from view from adjacent streets and residential areas and shall not be located within 200 feet of a residential district.

c. Self Service Storage Facilities

No Self Service Storage Facilities shall be located within 200 feet of a residential district.

⁷⁴ Source: 62.384. Lighting, grading, driveways, and landscaping standards were not carried forward, because they will be included as general standards in Installment 2. Traffic impact standards were not carried forward.

0. LI – Light Industrial⁷⁵

1. Purpose⁷⁶

The LI district provides an area for a mixture of commercial and industrial uses that do not generate significant adverse operational or traffic impacts, that are served by major thoroughfares providing direct access or a local street system with direct access to major thoroughfares, and with an adequate level of buffering, could be located in reasonable proximity to residential areas.



⁷⁵ Carries forward current M1 district with changes as noted.

⁷⁶ Source: 60.323.

2. Dimensional Standards⁷⁷

Table 200.03-15 LI Lot and Building Standards

Consolidated based on current standards. Standards will be re-evaluated as a part of Installment 2.

Lot Dimensions (Minimum)

	Lot Area	None
	Lot Width	None

Building/Structure Setbacks (Minimum in feet)

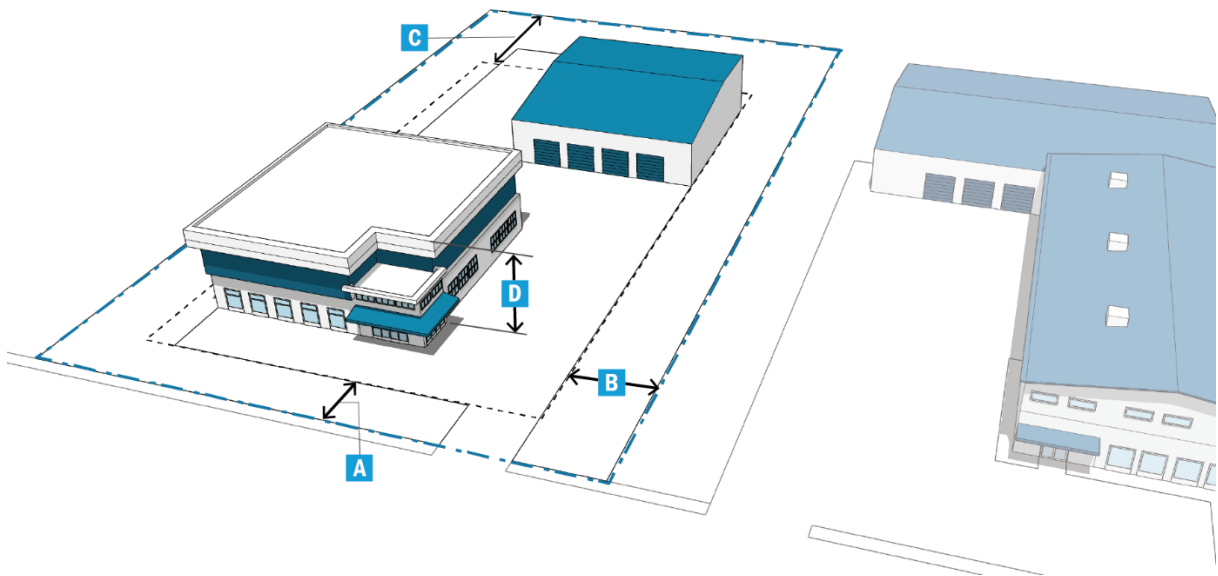
A	Front	25
B	Side	None
	Minimum Sum of Side Yards	None
C	Rear	10

Building/Structure Height (Maximum in feet)

D	Primary Structure	40 ⁷⁸
E	Accessory Structure	None [1]

NOTES

¹ If within 100⁷⁹ feet of a residential district, then 50 feet maximum height for accessory structures.



⁷⁷ Source: 62.341.

⁷⁸ Revised from unlimited height. Almost all of these facilities are one story structures, although accessory structures (such as silos or loading equipment) can be much higher.

⁷⁹ Applicability distance reduced from 200 feet, because 100 feet is often adequate to mitigate height distances.

P. SI – Special Industrial⁸⁰

1. Purpose⁸¹

The SI district is intended to accommodate uses that are potentially incompatible with other districts because of the negative impacts they generate in terms of truck traffic, rail-related activities, late-night operation, or other operational characteristics. It is intended for areas where different levels of infrastructure and transportation improvements can be provided in a cost effective and efficient manner that serve the needs of industrial, transportation, and manufacturing uses.



⁸⁰ Carries forward current M2 district, with changes as noted.

⁸¹ Source: 60.323.

2. Dimensional Standards⁸²

Table 200.03-16 SI Lot and Building Standards

Consolidated based on current standards. Standards will be re-evaluated as a part of Installment 2.

Lot Dimensions (Minimum)

Lot Area	None
Lot Width	None

Building/Structure Setbacks (Minimum in feet)

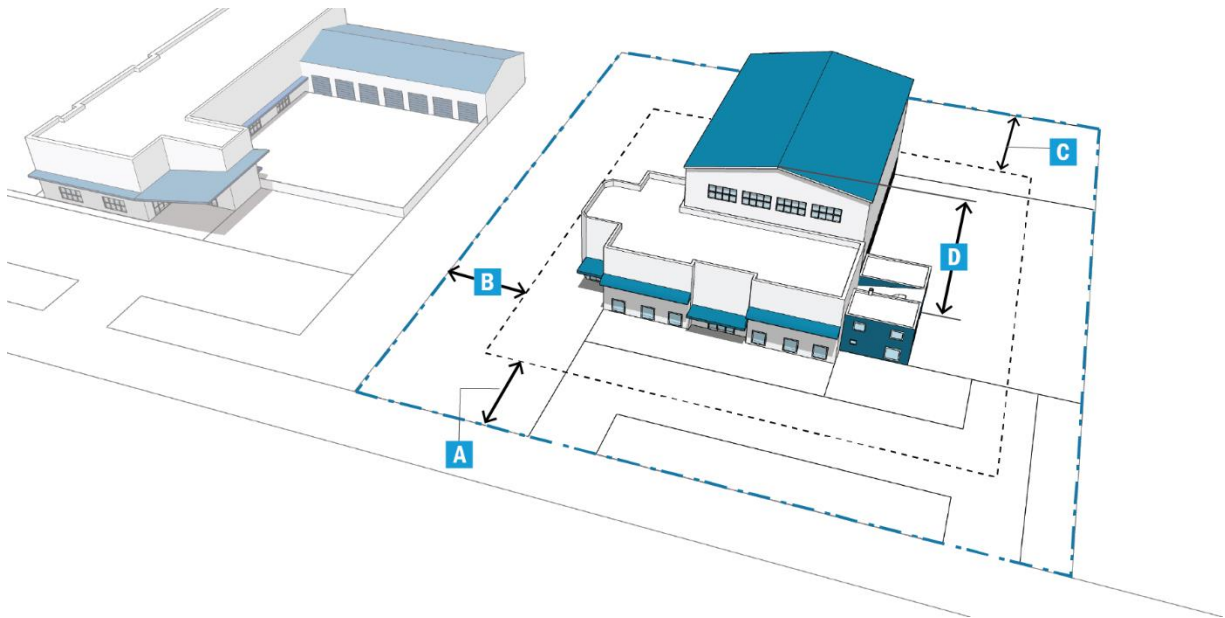
A Front	25
B Side	None
Minimum Sum of Side Yards	None
C Rear	None

Building/Structure Height (Maximum in feet)

D Primary Structure	50 ⁸³
Accessory Structure	None [1]

NOTES

¹ If within 200 feet of a residential district, then 50 feet maximum height for accessory structures.



⁸² Source: 62.351.

⁸³ Revised from unlimited height. Almost all of these facilities are one story structures, although accessory structures (such as silos or loading equipment) can be much higher.

Q. H - Holding⁸⁴

1. Purpose

The H district is intended to provide a temporary zoning classification for certain recently annexed lands where the determination of the permanent zoning classification has not been made by the City at the time of annexation. This district provides a period of time after annexation when permanent development or reuse of land is not permitted and affords the City the opportunity to establish the appropriate zoning district for the property.

2. Applicability

The Holding Zone district will be established on property if it is determined by the City that the default designation of R-2⁸⁵ for the annexed property would be inappropriate because of the designation of the property on the Rochester Future Land Use Map, changing conditions applicable to the property or the general area that could result in modifications to the designation of the property on the Rochester Future Land Use Map, or the developed character of the area and the established land uses on the property suggest that a district other than R-2 would be more appropriate for the property.

3. Standards⁸⁶

No building or structure shall be erected, enlarged, or moved and no change in the use of land or existing buildings or structures shall be made for properties in the H district except for expansions to existing uses in existing buildings.

⁸⁴ Source: 60.328. Sub-headings were added.

⁸⁵ Default designation revised from R-1 to R-2.

⁸⁶ Exception for existing buildings/uses was added.

Section 60.200.040 OVERLAY DISTRICTS⁸⁷

A. Overlay Districts⁸⁸

These overlay districts described in this Section supplement, but do not replace, the underlying base zone districts listed in Section 60.200.030, *Base Districts*. In the case of a conflict between the provisions of a base zone district and the provisions of an overlay district, the provisions of the overlay zone shall apply. Where multiple overlay districts apply to a property, development must comply with all overlay district provisions. In the case of a conflict, the stricter overlay provision shall apply. On topics where an overlay district is silent, the base zone district standards and any other applicable UDC requirements apply.

B. APO – Airport Protection Overlay⁸⁹

1. Procedural History⁹⁰

This section carries forward the substance of Joint Airport Ordinance Number 4 adopted by the Rochester City Council and other jurisdictions, which repealed and superseded Joint Ordinance Number 3 in its entirety. These ordinances regulated and restricted the heights of structures and objects of natural growth regulated the use of property in the vicinity of Rochester International Airport by creating and defining the boundaries of different regulatory zones and modifying earlier boundaries of those regulatory zones, defined terms, and incorporated the Rochester International Airport zoning map by reference. The Rochester International Airport zoning map is again incorporated by reference as a part of this UDC and may be revised as shown in [insert x-ref in later installment – APO procedures].

2. Purpose⁹¹

The purpose of the APO district is to:

- a. Ensure compliance with Federal Aviation Administration (FAA) rules and regulations;
- b. Protect the public health, safety, and welfare; and
- c. Provide for the free and unobstructed passage of all aircraft through all airspace above communities served by airports.

3. Applicability⁹²

The following air space and safety zones are included in the APO district, and different standards applying to each:

⁸⁷ The overlay districts require further discussion with Staff and further edits may be included.

⁸⁸ New Section that summarizes the general application of overlay districts.

⁸⁹ Source: Rochester International Airport Zoning Ordinance. The Ordinance was consolidated into this overlay district. It was edited for clarity and consistency. Most provisions were simplified. All substantive changes are noted in footnotes. Provisions related to authority, nonconformities, variances, appeals, judicial review, penalties, conflicts, and severability will be reviewed and included as a part of later installments. We adjusted some standards based on initial discussions with Staff like removing references to runways that do not exist and correcting a typo in the height requirements. We did not carry forward the provisions on how to designate 'Established Residential Neighborhoods' that are exempt from some of these standards, because we assume that process was completed long ago. This section may require further edits as it relates to the Air Transportation use. It reflects the current Ordinance and will be updated when the ALP is amended in a couple of years. At that time, Rochester Code of Ordinances Section 9-14 may also be consolidated here.

⁹⁰ This provision is found in the introduction of the Airport Ordinance and was included per Staff request.

⁹¹ The lengthy list of purposes in the current Ordinance was simplified to this statement.

⁹² Applicability Section consolidated the different zone descriptions found throughout the Ordinance.

a. Primary Zone

- 1) All that land that lies directly under an imaginary primary surface longitudinally centered on a runway and extending 200 feet beyond each end of runways 13, 31, 2, and 20.
- 2) The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is 1000 feet for runways 13, 31, 2, and 20.

b. Horizontal Zone

- 1) All that land that lies directly under an imaginary horizontal surface 150 feet above the established airport elevation, or a height of 1,467 feet above mean sea level, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connect the adjacent arcs by lines tangent to those arcs.
- 2) The radius of each arc is 10,000 feet for runways 13, 31, 2, and 20.

c. Conical Zone

All that land that lies directly under an imaginary conical surface extending upward and outward from the periphery of the horizontal surface at a slope of 20:1 for a horizontal distance of 4,000 feet as measured outward from the periphery of the horizontal surface.

d. Precision Instrument Approach Zone

- 1) All that land that lies directly under an imaginary precision instrument approach surface longitudinally centered on the extended centerline at each end of 13, 31, 2, and 20 a precision instrument runways.
- 2) The inner edge of the precision instrument approach surface is at the same width and elevation as, and coincides with, the end of the primary surface.
- 3) The precision instrument approach surface inclines upward and outward at a slope of 50:1 for a horizontal distance of 10,000 feet expanding uniformly to a width of 4,000 feet, then continues upward and outward for an additional horizontal distance of 40,000 feet at a slope of 40:1, expanding uniformly to an ultimate width of 16,000 feet.

e. Transitional Zone

- 1) All that land that lies directly under an imaginary surface extending upward and outward at right angles to the runway centerline and centerline extended at a slope of 7:1 from the sides of the primary surfaces and from the sides of the approach surfaces until they intersect the horizontal surface or the conical surface.
- 2) Transitional surfaces for those portions of the precision instrument approach surface that project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the precision instrument approach surface and at right angles to the extended precision instrument runway centerline.

f. Safety Zone A

All land in that portion of the approach zones of a runway that extends outward from the end of primary surface a distance equal to two thirds of the planned length of the runway. The distance shall be:

- 1) 6,023 feet for runways 13 and 31.⁹³
- 2) 5,570 feet for runways 2 and 20.⁹⁴

g. Safety Zone B

All land in that portion of the approach zones of a runway that extends outward from Safety Zone A, a distance equal to one-third of the planned length of the runway. The distance shall be:

- 1) 3,533 feet for runways 13 and 31.⁹⁵
- 2) 2,833 feet for runways 2 and 20.

h. Safety Zone C

All land that is enclosed within the perimeter of the horizontal zone and that is not included in Safety Zone A or Safety Zone B.

4. Airport Zoning Map⁹⁶

The Airport Zoning Map illustrates the boundaries of the airport zones listed in this Subsection 2 above and is adopted as part of this UDC.

5. Boundary Limitations⁹⁷

The air space obstruction height zoning restrictions set forth in this Section 60.200.040B shall apply for a distance not to exceed one and one half miles beyond the perimeter of the airport boundary and in that portion of an airport hazard area under the approach zone for a distance not exceeding two miles from the airport boundary.

6. Height Restrictions

Except as otherwise provided in this UDC, and except as necessary and incidental to airport operations, no structure or tree shall be constructed, altered, maintained, or allowed to grow in the APO district so as to project above any of the imaginary air space surfaces described Subsection 2. Where an area is covered by more than one height limitation, the more restrictive limitation shall apply.

7. Use Restrictions

a. Generally

- 1) No use shall be made of any land in any of the Safety Zones that:
 - (a) Creates or causes interference with the operations of radio or electronic facilities on the airport or with radio or electronic communications between the airport and aircraft; and/or

⁹³ Distance updated in accordance with Staff recommendations.

⁹⁴ Distance updated in accordance with Staff recommendations.

⁹⁵ These distances should be re-calculated based on further Staff recommendations.

⁹⁶ Replaces a lengthy provision about the Airport Zoning Map.

⁹⁷ These boundary limitations may be removed pending further discussion with Staff.

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- (b) Makes it difficult for pilots to distinguish between airport lights and other lights, results in glare in the eyes of pilots using the airport, impairs visibility in the vicinity of the airport, or otherwise endangers the landing, taking off, or maneuvering of aircraft.
 - 2) Any use not explicitly prohibited in this Section 60.200.040B.7 may, when determined by the Commissioner of the Minnesota Department of Transportation, be prohibited if the Commissioner determines that it constitutes a material danger to the landing, taking off, or maneuvering of aircraft or to the safety of persons on the ground. In making such a determination, the Commissioner of the Minnesota Department of Transportation shall consider the following factors:⁹⁸
 - (a) Possibility that the land use may contribute to or cause a collision of two or more aircraft or an aircraft and some other object;
 - (b) Possibility that the land use may, in case of an aircraft accident, cause an explosion, fire, or the release of harmful or noxious fumes, gases, or substances;
 - (c) Tendency of the land use to increase the number of persons that would be injured in case of an aircraft accident;
 - (d) Effect of the land use on availability of clear areas for emergency landings; and
 - (e) Flight patterns around the airport, the extent of use of the runway in question, the type of aircraft using the airport, whether the runways are lighted, whether airport is controlled, and other similar factors.
- b. **Zone A**
- Areas designated as Zone A shall:⁹⁹
- 1) Contain no buildings, temporary structures, exposed transmission lines, or other similar above ground land use structural hazards;
 - 2) Be restricted to those uses that will not create, attract, or bring together an assembly of persons thereon;
 - 3) Not be permitted to have any type of dwelling or primary residence located entirely inside Safety Zone A within 1000 feet of the end of the primary zone.
- c. **Zone B**
- Areas designated as Zone B shall:

⁹⁸ Clarification on whether to delete the second sentence and related list of factors below is required, because a local ordinance probably cannot direct how the Commissioner makes these decisions, and these factors may have been updated since the airport ordinance was drafted.

⁹⁹ Permission to have agriculture uses was not carried forward, since this list is intended to restrict the uses otherwise allowed in the base district and listing permissions could be read to allow uses that are not permitted in the base district.

- 1) Be permitted one single family dwelling and accessory buildings per five acre tract of land for agricultural and residential purposes. Accessory farm buildings may include one single family tenant dwelling.
- 2) Be allowed to contain any commercial or industrial use that meets the following standards:
 - (a) Each single commercial or industrial site shall be 20 acres or greater and shall contain no dwellings; and
 - (b) The use shall not permit, require, cause, or attract an assembly or concentration, public or private, at any one time, regardless of duration, of more than eighty persons per commercial or industrial site, or more than twenty persons in any one acre of such site.
- 3) Not be permitted to have churches, hospitals, schools, theatres, stadia, hotels, motels, trailer courts, campgrounds, multi-unit dwellings, and other places of frequent public assembly.

d. Zone C

Areas designated as Zone C shall:

- 1) Be permitted single family dwellings intended for occupancy for more than 30 days if constructed on a lot greater than one acre in size or the minimum size required by the applicable Township Zoning Ordinance, whichever is the most restrictive.
- 2) Not be permitted to have hospitals and schools.

8. Permit Required¹⁰⁰

- a. All material changes in the use of land and/or structures in any zone listed in this Section 60.200.040B requires a permit approved by the Community Development Director.

b. Exceptions

A permit is not required for a tree or structure of less than 75 feet of vertical height and meeting the required height limitations in this Section 60.200.040B in the horizontal and conical zones or in any approach and transitional zones beyond a horizontal distance of 4,200 feet from each end of the runway.

9. Role of the Community Development Director¹⁰¹

- a. It shall be the duty of the Community Development Director of the City of Rochester to administer and enforce the regulations prescribed in the APO district.
- b. Applications for permits and variances shall be made to the Community Development Director.
- c. Permit applications shall be promptly considered and granted or denied by the Community Development Director in accordance with the requirements of this Section.

¹⁰⁰ Replaces a lengthy and legalese provision.

¹⁰¹ This section will be consolidated with other information on duties, enforcement, adjustment, and variances when Installment 3 (Procedures) is drafted. The new statutory requirements allowing the administrator to issue a permit without a variance if an FAA aeronautical study finds the proposed structure is non-hazardous may also be included.

10. Role of the Zoning Board of Appeals¹⁰²

- a. The Rochester Zoning Board of Appeals shall serve as the Zoning Board of Appeals for lands within the City located in the APO overlay district.
- b. The Zoning Board of Appeals shall have and exercise the following powers:
 - 1) Hear and decide appeals from any order, requirement, decision, or determination made by the Community Development Director in the enforcement of this Ordinance;
 - 2) Hear and decide special exceptions to the terms of this Ordinance upon which such Zoning Board of Appeals under such regulations may be required to pass; and
 - 3) Hear and decide specific variances.

¹⁰² Name changed from Board of Adjustment to match current naming convention. This section will be consolidated with other information on duties, enforcement, adjustment, and variances when Installment 3 (Procedures) is drafted. Detailed provisions on the internal proceedings of the Zoning Board of Appeals (e.g. keeping minutes, majority votes) were not carried forward in this section but will appear on the City's website section regarding the Zoning Board of Appeals. Most newer codes do not include those minor matters and removing them from the UDC allows them to be changed without the need to amend the UDC as the Board revises its working procedures to use new technology or be more efficient in the future.

C. LCO – Local Character Overlay¹⁰³

1. Purpose

The purpose of the LCO district is to preserve areas with distinctive design, layout, or architectural characteristics of a neighborhood or area that are worthy of preservation but are not historical or may lack sufficient significance to qualify for the Heritage Preservation Overlay district. These areas must meet one or more of the following characteristics:

- a. Have recognized neighborhood identity and character;
- b. Have high or distinctive design, layout, or architectural value;
- c. Represent a unique period or approach to development in the City; and/or
- d. Have a relationship with cultural landscapes as identified by the city, county, state, or federal government.

2. Applicability

The LCO district applies to all properties approved by City Council and mapped on the Official Zoning Map as LCO.

3. Procedure

The following process shall be used to designate properties in the LCO district.

- a. One or more citizens or property owners in the area of the proposed LCO district shall submit a petition to City Council requesting analysis of the built design, layout, or architectural character within the proposed boundaries of the LCO.
- b. Council shall find, based on the petition, that the properties meets the purpose of the LCO and shall direct Staff to complete an analysis of the properties within a defined area, which may differ from the proposed LCO boundaries included in the petition.
- c. Staff shall complete the analysis of the area identified by Council and shall hold a neighborhood meeting for all property owners within the proposed LCO boundaries to discuss the analysis and what additional regulations, if any, should apply to protect those unique design, layout, or architectural characteristics in that area.
- d. Staff shall consider comments made at the neighborhood meeting and may revise the proposed regulations and may narrow (but shall not expand) the proposed boundaries for the LCO in response to neighborhood comments.
- e. The proposed creation of the LCO shall then be reviewed through the process for amending the UDC in [insert x-ref in later installment - Amendments to the UDC Text or Zoning Map].

¹⁰³ The LCO district is a new district that is intended to preserve specific design characteristics neighborhoods of significant character to Rochester and acts as a more limited substitute to the current Special Districts process. Unlike Special Districts, the LCO process cannot be used to add or delete land uses or create new procedures for review of proposed development. This district is still being discussed with Staff to avoid inequity or NIMBYism.

4. Limitations

- a. The provisions of the LCO shall be consistent with the purpose and intent of the base zoning district.
- b. The LCO may not be used to revise uses permitted in the base zoning district as shown in Section 60.300.020, *Allowed Uses Table* or the use-specific standards applicable to those uses in the base zoning district.
- c. The LCO may not be used to revise any procedures applicable to the review and approval of development applications that would apply in the base zoning district pursuant to Chapter 60.400, *Development Standards and Incentives*.

D. HPO – Heritage Preservation Overlay¹⁰⁴

1. Purpose¹⁰⁵

The HPO district is intended to:

- a. Safeguard the heritage of the City by preserving properties that reflect elements of the City's cultural, social, economic, political, visual, or architectural history;
- b. Enhance the City's appeal and attraction to residents, visitors, and tourists while promoting its economic viability through the protection and promotion of its unique character as related to its history and heritage;
- c. Foster civic pride in the beauty and notable accomplishments of the past; and
- d. Promote the environmental benefits of adapting and reusing buildings.

2. Applicability¹⁰⁶

The HPO district applies to all properties listed as “designated” in the City inventory of designated properties maintained by the Heritage Preservation Commission.

3. Heritage Preservation Commission¹⁰⁷

- a. The Heritage Preservation Commission (HPC) is hereby established by this UDC.
- b. The HPC shall:
 - 1) Make recommendations to City Council for the designation of a building, site, structure, or object, or any collection thereof, as a heritage preservation property;
 - 2) Ensure that there is an updated inventory of all buildings, structures, sites, that are heritage preservation properties or are eligible to become heritage preservation properties; and
 - 3) Upon request, provide guidance to applicants on state and national tax credit programs.¹⁰⁸

4. Criteria for Designation¹⁰⁹

¹⁰⁴ Source: Chapter 4-7 of the Rochester Code of Ordinances. Re-organized and modified for clarity and consistency. Provisions related to development review procedures will be included in Installment 3. References to the National Register were removed per Staff request. Provisions related to incentives were not included here because it was unclear how/if financial incentives are actually given for HPO properties. This requires further discussion. The inclusion of a map of all properties in the HPO in this Section as well as in the Official Zoning Map (rather than the map on the HPC website) should be discussed.

¹⁰⁵ Source: Rochester Code of Ordinances, 4-7-1. Edited for simplicity.

¹⁰⁶ New. The HPC often uses the term “landmark” interchangeably with “designated.” All references to “landmarks” have been changed to “heritage properties” for consistency and to avoid confusion with differing legal designations. References to landmark districts were not carried forward though the standards were consolidated as stated below.

¹⁰⁷ Source: Rochester Code of Ordinances 4-7-2(a); 4-7-3; 4-7-8; 4-7-19. Edited for clarity and consistency. Additional information about the HPC’s internal requirements (e.g. how many members it must consist of) will be included in installment 3. This material is included here for review purposes but will be consolidated with other information about review and approval bodies in Installment 3.

¹⁰⁸ Changed from a broad requirement to this recommendation.

¹⁰⁹ Source: Rochester Code of Ordinances 4-7-8. Provisions related to district designation were consolidated here because they were largely identical. This may require further discussion. This material will also be relocated to Installment 3 (Procedures), which will contain all criteria by which City appointed, elected, and appeal bodies make their decisions.

The following criteria shall be used in designating a building, district, land, site, structure, or object, or any collection of these in the HPO district. In designating a historic district (a geographically definable area that is historically significant), the HPC shall¹¹⁰ consider the criteria as it applies to the entire geographic area and make a decision based on whether the overall area meets the following criteria.

- a. Its character, interest, or value as part of the development, heritage, or cultural characteristics of the city, state, or nation;
- b. Its location as a place of a significant historic event;
- c. Its identification with a person who significantly contributed to the culture and development of the City;
- d. Its embodiment of distinguishing characteristics of an architectural style, period, form, or treatment;
- e. Its identification as the work of an architect or master builder whose individual efforts have influenced the development of the City or have contributed to the development of a nationally- or internationally-recognized style or movement;
- f. Its embodiment of elements of architectural design, detail, material, or craftsmanship that represent a significant architectural innovation; and
- g. Its location, scale, or other physical characteristics representing an established and familiar visual feature of a neighborhood, a district, the community, or the City.

5. Standards¹¹¹

Properties in the HPO district must comply with the following standards.

a. Decorative and Character Defining Elements

Original decorative and character defining elements and those that may not be original but have acquired significance by virtue of age or craftsmanship shall be restored, maintained, and preserved.

b. Doors and Windows

- 1) Original doors and windows shall be retained and preserved, including such elements as sash, glass, sills, lintels, casings, muntins, trim, frames, thresholds, and hardware.
- 2) When repair is not feasible, as determined by the HPC, replacements may be deemed appropriate, provided the appearance, detail, profile, size, and material are designed to match the original door or window.
- 3) The wholesale replacement of original windows is not permitted.
- 4) Windows that are not original to the structure may be replaced in-kind or with a higher-grade material.
- 5) If additional doors or windows become necessary, they shall be located and designed in a sensitive manner.

¹¹⁰ Replaces “should”.

¹¹¹ Source: Rochester Code of Ordinances 4-7-10. The standards in this Section are new and replace a broad statement that allows Council to apply standards on a case-by-case basis.

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- 6) If it is necessary to expand original openings, it shall be accomplished in a manner that respects and complements the surrounding building elements, materials, and colors.

c. Exterior Walls

- 1) A structure's original walls, including masonry, siding, sheathing materials, and exposed foundations, shall be maintained and preserved. Walls, siding, and sheathing materials that may not be original, but have acquired significance by virtue of age or craftsmanship, shall also be maintained and preserved.
- 2) These walls, siding, and sheathing materials shall not be altered, covered, or disguised by new building materials unless it is no longer feasible to maintain the significant materials.
- 3) Masonry shall not be painted or stuccoed unless it is no longer feasible to maintain the significant materials.
- 4) Restoration of original walls, siding and sheathing materials is encouraged.
- 5) Removal of false facades that cover or disguise original walls and materials is encouraged.

d. Fences, Sidewalks, Decorative Dividers, and Walls

- 1) Fences and decorative walls shall be placed and scaled in a manner that does not cover, block, or damage significant building facades or elements.
- 2) Fences and walls shall be of a style or period that corresponds with the style or period of the building or buildings they serve.
- 3) Original fences, walls, and sidewalks and those that have acquired significance by virtue of age or craftsmanship shall not be removed or destroyed and shall be maintained and preserved.

e. Garbage Dumpsters

Garbage dumpsters, bollards, and other similar fixtures shall be structurally and cosmetically maintained and shall be placed in a manner that is as inconspicuous as possible.

f. Mechanical Equipment and Weather Protection Devices

Mechanical and weather protection devices shall be placed and installed in a manner that is unobtrusive, while complying with all current building, electrical, mechanical, and safety codes.

g. Porches and Loading Docks

- 1) Porches, porticos, stoops, entryways, loading docks and exterior stairways shall be of a scale, design, material, and color that complement the existing facade and its individual elements.
- 2) Loading docks and service entrances shall be located inconspicuously and should be considered a part of a building's overall design scheme.

h. Roofs

- 1) Rooflines and shapes shall not be altered.
- 2) Visible roofing materials shall be compatible with other building elements and materials in terms of color, materials, and texture.
- 3) The use of roofing materials appropriate to the style and period of the building is encouraged. The use of roofing materials that reflect an earlier or later style or period is discouraged.

i. Signs and Awnings

- 1) Original signs or those that have acquired significance by virtue of age or craftsmanship shall be maintained and preserved.
- 2) Signs that disguise, obstruct, or detract from significant facade elements shall not be allowed.
- 3) Signs and awnings shall be designed to complement the style, materials, and color of the building.
- 4) Lighting and other illumination shall be properly shielded or diffused to eliminate glare.
- 5) Individual building mounted lights shall be no brighter than 100 watts and be mounted no lower than six feet and no higher than nine feet in height.
- 6) All signs shall comply with Section 60.400.130, Signs.

j. Vacant Lots, Alleys, and Parking Areas

- 1) Parking lots, driveways, and other spaces between and around buildings shall be designed and maintained in a manner that does not detract from neighboring buildings and façades.
- 2) The creation of new parking lots, driveways, and parking pads shall be done in a way to minimize their appearance and to complement the buildings they serve and the surrounding neighborhood.

6. Maintenance and Repair of Structures¹¹²

A certificate of appropriateness is required for all exterior alterations of an HPO property except for routine maintenance and repair to the extent that such maintenance and repair does not constitute an alteration of any exterior feature. Property owners must maintain HPO properties to prevent deterioration and decay of the property.

7. Demolition of Structures¹¹³

- a. A demolition permit issued by Council is required for the demolition of a heritage preservation property.

¹¹² Source: Rochester Code of Ordinances Section 4-7-12. This Section was modified for clarity and consistency. A lengthy list of exempt activities was removed and replaced with this general language.

¹¹³ Source: Rochester Code of Ordinances 4-7-13; 4-7-14.b. Modified for clarity. Subsection b regarding the issuance of a certificate of hardship will be relocated to Installment (Procedures) because it concerns an action by City Council under this UDC.

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- b. In order to obtain a demolition permit that would permit the demolition of a heritage preservation property, the applicant must obtain a certificate of economic hardship, as explained in [\[insert x-ref in later installment\]](#). HPC may recommend and the City Council may approve a certificate of economic hardship if one or more of the following criteria are met:
- 1) A building has lost its architectural and historical integrity and/or its removal will not adversely affect the character of the HPO district. Loss of integrity must be substantiated with photographic documentation and a physical description of the property that addresses relevant issues; or
 - 2) The denial of a demolition permit will result in an unreasonable economic hardship on the applicant as determined by the recommendation of HPC and decision by Council, using the following criteria:
 - (a) The public safety and welfare requires the removal of a structure or building; and
 - (b) If the structural instability or deterioration of a property is demonstrated through a report by a structural engineer or architect. Such a report must clearly detail the property's physical condition, reasons why rehabilitation is not feasible, and cost estimates for rehabilitation versus demolition.

8. Inventory of Designated Properties¹¹⁴

- a. The HPC shall maintain a comprehensive Inventory of all properties in this HPO district. The inventory is intended to recognize an area, building, structure, land, site, and object located in the City that has special significance to the nation, the state, or the City's history, architecture, archaeology, engineering, or culture. The location of a property listed on the inventory shall be designated on maps on file with the City Clerk.
- b. Following the City Council's adoption of an ordinance designating a property on the inventory, the City Clerk shall record with the real estate records of the county a certified copy of the ordinance including a legal description of the property.

9. Identification of Properties¹¹⁵

- a. HPC shall conduct, cause to be conducted, or accept submittals of such preliminary surveys, studies, or investigations as deemed necessary or advisable to adequately inform the HPC and the City Council of a property located within the City that has the potential to be designated a heritage preservation property.
- b. The documents generated and collected as a result of these efforts shall be recognized as the historic data and be made publicly available.
- c. The HPC shall use the historic data for determining the eligibility and designation of a district and property.

¹¹⁴ Source: Rochester Code of Ordinances 4-7-7. We suggest that this section include a list of all designated properties (or a hyperlink to a list maintained in the City's website), and maps of the boundaries of the historic districts designated to date.

¹¹⁵ Source: Rochester Code of Ordinances 4-7-5; 4-7-15. Provisions related to additional criteria for property identification that listed sources that could not be located were not carried forward. The relationship between the process to identify properties for the inventory, as opposed to actual designation of properties as protected (if there is one) is unclear to us. Further discussion is required.

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- d. HPC shall compile a list of other properties that may not meet the criteria for historic preservation property designation but meet the historic significance criteria. All such properties shall be designated as potential heritage preservation property in the inventory.

10. Designation of Potential Properties¹¹⁶

- a. To be eligible for designation on the inventory as a potential heritage preservation property, the individual building, site, structure, or object, or a collection of buildings, sites, structures, or objects, must have a demonstrated quality of significance as determined by the criteria provided in *Section 60.200.040D.4, Criteria for Designation*. HPC shall determine if the property should be designated as a potential heritage preservation property based on the designation criteria.
- b. The HPC may consider a building, contributing building, site, structure, or object as a potential heritage preservation property on the inventory. Any person may petition the HPC for a building, site, structure, or object [to] be considered as a potential heritage preservation property by filing out an application and paying a fee as set by council resolution. Upon receipt and payment, the application shall be submitted to the assigned staff for review and recommendation and placed on an HPC meeting agenda.¹¹⁷

11. Potential Heritage Preservation Property Protection Period¹¹⁸

- a. The purpose of the potential heritage preservation property protection period is to protect the potential heritage preservation property from alteration or demolition before a determination is made whether the property should be designated as a heritage preservation property.
- b. If the owner of a potential heritage preservation property objects to the designation as a potential heritage preservation property and submits a land use application, or a demolition application, the City shall have up to 60 days to make a decision regarding the designation of the property.
- c. The potential heritage preservation property protection period may be extended an additional 30 days upon approval by the City Council, or longer if mutually acceptable to both the City Council and the property owner. Nothing herein shall prevent the City from reviewing any land use application or building permit affecting the subject property during the potential heritage preservation property protection period.
- d. Within the potential heritage preservation property protection period the following shall occur:
 - 1) Staff shall meet with the property owner to discuss the Heritage Preservation Program and benefits that the property may be eligible to receive if it meets the criteria for designation as a heritage preservation property.

¹¹⁶ Source: Rochester Code of Ordinances 4-7-15. This material will be re-evaluated and relocated to the Procedures section of Installment 3.

¹¹⁷ Required application materials were not carried forward here, but will be consolidated with other lists of applicable requirements on the City's website.

¹¹⁸ Source: Rochester Code of Ordinances 4-7-16.

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- 2) HPC shall meet and make a recommendation pursuant to *Section 60.200.040D.4*, Criteria for Designation to City Council to proceed with designating the property as a heritage preservation property or to allow the land use application or demolition application to continue.

12. Removal of Heritage Preservation Designation¹¹⁹

- a. An application for the removal of a heritage preservation property from the inventory shall follow the same submission requirements and review procedures as for designation, except that the application shall include an explanation describing why the property no longer meets the criteria for designation as a heritage preservation property.
- b. After a public hearing on the matter, HPC shall determine if sufficient evidence exists showing the property no longer meets the criteria for designation. If so, HPC shall remove the property from the inventory.
- c. Removal decisions made by HPC may be appealed to City Council.
- d. If a request for rescinding designation is denied, an application cannot be filed again for a period of two years from the date of the denial by Council. Council may waive this time limitation.

13. Removal of Potential Heritage Preservation Designation¹²⁰

- a. The owner of a potential heritage preservation property may apply to HPC for removal of the potential heritage preservation property designation by providing evidence that the property does not meet criteria for designation as a heritage preservation property.
- b. After conducting a public hearing, if HPC determines that the property should be removed as a potential heritage preservation property, staff shall issue the owner a certificate documenting the removal of the potential heritage preservation property designation, and the subject property shall not be eligible for heritage preservation designation in the City for a period of two years from the date of issuance of the certificate.
- c. The certificate shall run with the land and may be recorded in the county records.

¹¹⁹ Source: Rochester Code of Ordinances 4-7-9. This Section will be relocated to the Procedures chapter of Installment 3, because it concerns how City Council makes designation/un-designation decisions.

¹²⁰ Source: Rochester Code of Ordinances 4-7-17.

E. DEO - Decorah Edge Overlay¹²¹

1. Purpose¹²²

The purpose of the DEO district is to implement the Wetland Conservation Act of 1991 (Minn. Laws 1991 chapter 354), as may have been amended from time to time ("WCA"), and the accompanying rules of the Board Of Water And Soil Resources (Minn. R. ch. 8420, as amended), and to protect the biological diversity and water quality and water quantity benefits of wetlands and related features particularly in areas of the City with significant groundwater discharge, interflow, and recharge characteristics.

2. Applicability¹²³

- a. This chapter regulates impacts to or hydrologic alteration of wetlands or parts of wetlands and Edge Support Areas within the City.
- b. In the event that an inconsistency exists between the provisions of state law, the rules of the Board of Water and Soil Resources, and this Chapter, the provision that provides the most wetland protection shall apply.
- c. Except as provided in Minn. R. ch. 8420, wetlands within the City must not be impacted unless replaced by restoring or creating wetland areas of at least equal public value.
- d. The Community Development Director shall rely on the most current published soil survey, unless supplemented by a first order soil survey, National Wetlands Inventory, and other relevant data sources, and by on-site investigation, as a guide to identifying areas to be investigated for wetlands and Edge Support Areas.

3. Incorporation of the Wetland Conservation Act¹²⁴

The DEO district incorporates by reference the WCA and Minn. R. ch. 8420. Except as provided in this Section, terms used in this Section, that are defined in the Act or the Rules, have the meanings given there.

4. Map¹²⁵

a. Generally

- 1) The Community Development Department shall maintain maps showing the approximate location and extent of the DEO district.¹²⁶
- 2) The Community Development Department shall maintain copies of the most current maps and update the maps from time to time as more reliable information becomes available.
- 3) Where detailed site investigation identifies more accurate information as to the location and extent of the Decorah, Platteville, or Glenwood formations and areas

¹²¹ The Decorah Edge Overlay incorporates Chapter 6.3 of the Rochester Code of Ordinances and converts those regulations into an overlay district. It was lightly edited because further discussion with Staff is required. Definitions were moved to that Article of the UDC. The regulations used the term 'Common Council' interchangeably with 'City Council.' We changed all references to City Council.

¹²² Source: Rochester Code of Ordinances 6.3.1.

¹²³ Source: Rochester Code of Ordinances 6.3.5.

¹²⁴ Source: Rochester Code of Ordinances 6.3.2. Broken out from the current Definitions section.

¹²⁵ Source: Rochester Code of Ordinances 6.3.2. Re-organized.

¹²⁶ References to the Planning Department were changed to reflect the current naming convention.

of associated groundwater movements in adjacent portions of the Cummingsville and St. Peter formations, the detailed site information shall apply.

b. Decorah Edge Map

Decorah Edge maps include those areas of the City within the boundary of the Decorah Edge, as defined in this UDC.

c. Bedrock Geology Map

- 1) The bedrock geology map includes an adjacent area determined based on half the distance of the reported accuracy of the source map.
- 2) The bedrock geology map, the reported accuracy is 100 meters or 330 feet, resulting in an added dimension of 50 meters or 165 feet.
- 3) The dimension of the adjacent area shall reflect the accuracy of the source maps and is not intended as a buffer area.

5. Local Government Unit¹²⁷

The City Council shall be the local government unit for the purposes of the Wetland Conservation Act and Minn. R. ch. 8420.

6. Technical Evaluation Panel¹²⁸

- a. A technical evaluation panel is hereby recognized and authorized to participate in wetland determinations as identified in Minn. R. pt. 8420.0240.
- b. A representative appointed by the Community Development Director who is a technical professional with expertise in water resources management is hereby appointed to the technical evaluation panel to participate with the appointed persons from the Board of Water and Soil Resources and from the Soil and Water Conservation District within the county.
- c. For projects affecting public waters, public waters wetlands, or wetlands within the shoreland protection zone, the panel also includes a technical professional employee of the Department of Natural Resources.

7. High Priority Areas¹²⁹

The City is designated a high priority area under Minnesota Rules. Decisions regarding sequencing, replacement plans, and banking shall particularly favor preservation, restoration, and creation of wetlands in high priority areas as identified in water management plans pursuant to Minn. R. pt. 8420.0835. Calcareous fens and wetlands, both natural and restored, located in Edge Support Areas are high priority areas.

8. Special Protection Areas¹³⁰

- a. Except as exempted in this Section, groundwater supported wetlands and Edge Support Areas must not be impacted or altered hydrologically, wholly or partially.

¹²⁷ Source: Rochester Code of Ordinances 6.3.3.

¹²⁸ Source: Rochester Code of Ordinances 6.3.4.

¹²⁹ Source: Rochester Code of Ordinances 6.3.15.

¹³⁰ Source: Rochester Code of Ordinances 6.3.6.

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- b. Development activities must be carried out in such a way as to maintain groundwater flow to or from a wetland, and to protect the quality, functions, and values of the wetland as determined by the latest functional assessment method acceptable to the state board of water and soil resources.
 - c. **Special Protection Area Exemptions**
 - 1) Special protection area requirements shall not apply if the process described in Section 60.200.040E.12, *Sequencing and Replacement Plan Decision* is followed with the resulting determination that there exists one of the following findings:
 - (a) The development activity involves the construction of local collectors or higher order streets, where the City Council has found in its approval of a general development plan that:
 - (i) The traffic service standards cannot be met without providing for the street in question;
 - (ii) The street in question is designated as a primary collector or higher order street, or the area served is designated as in need of a local collector in the ROCOG Long Range Transportation Plan;
 - (iii) The proposed alignment causes the least disruption to groundwater discharge interflow and recharge characteristics in comparison with suitable and practical alternative alignments;
 - (b) The development activity involves the modification, realignment, or other improvement of an existing public road by a road authority;
 - (c) The development activity involves the construction of other infrastructure of a regional nature, such as regional trails, major power lines, regional stormwater ponds, water mains, or sewer interceptors, where the City Council has determined that the proposed alignment causes the least disruption to groundwater discharge, interflow, and recharge characteristics in comparison with suitable and practical alternative alignments;
 - (d) The development activity involves the construction of park facilities in general development plans or subdivisions approved prior to October 1, 2006;
 - (e) The development activity involves the construction of a new road in a development that is needed to provide secondary access to a residential area that would otherwise result in more than 50 homes relying on a single access, where the council has determined that the platted alignment causes the least disruption to groundwater discharge, interflow, and recharge characteristics, in comparison with suitable and practical alternative alignments and where the requirement for secondary access has not been waived; or

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- (f) The development activity involves the alteration of groundwater supported wetlands in conjunction with restoration or enhancement projects that are in accordance with Section 60.200.040E.12, *Sequencing and Replacement Plan Decision*. Enhanced or restored groundwater supported wetlands must be of at least equal function and value as determined by the latest functional assessment method acceptable to the state board of water and soil resources located in the same geologic setting (fill or bedrock-dominated), and in the same minor watershed.
 - 2) All areas of buildable lots identified either in plats or general development plans (excluding outlots) shall be exempt from the special protection provided to Edge Support Areas if:
 - (a) Part or all of the lot received interim or final grading plan approval by both the City engineer and the Community Development Director prior to October 1, 2006; or
 - (b) The lot is part of a final plat approved prior to October 1, 2006.
 - 3) All areas of buildable lots shall be exempt from the special protection provided to groundwater supported wetlands if the lot is included in a development for which a replacement plan has been approved prior to October 1, 2006, addressing the groundwater supported wetland.

9. Exemptions¹³¹

a. Application

- 1) A landowner may apply for an exemption from the provisions of the WCA and this DEO district if the property to be impacted or hydrologically altered meets the wetland exemption criteria contained in Minn. R. pt. 8420.0420. Any Edge Support Area associated with an exempted groundwater supported wetland shall also be exempted.
- 2) A landowner intending to impact or hydrologically alter a wetland without replacement, claiming exemption, shall apply to the Community Development Director before beginning excavation, draining, or filling activities for determination whether or not the activity is exempt.

b. Decision

- 1) Exemption decisions under Minn. R. pt. 8420.0420 shall be made by the Community Development Director.
- 2) The Community Development Director may seek the advice of the technical evaluation panel as specified in Minn. R. pt. 8420.0240(C).

c. Appeal

- 1) The Community Development Director's decision is final unless appealed to the City Council within 30 days after written notice of the Community Development Director's determination is mailed to the applicant.

¹³¹ Source: Rochester Code of Ordinances 6.3.7. Re-organized.

- 2) An exemption notice of decision shall be provided to the landowner upon the Community Development Director's or City Council's determination that the activity qualifies for exemption.
- 3) The authority granted by the notice of decision shall be stayed during the time an appeal is pending before the state board of water and soil resources.

10. Exceptions¹³²

Requests for exceptions to provisions of this Section related to Edge Support Areas (where the applicant contends that the Section should not be applied to the property in question, in whole or in part) shall be heard by the City Council at the time of general development plan review, or at the time of wetland delineation if a general development plan is not required. Applicants may seek exceptions to restrictions on disturbance of Edge Support Areas on the basis of public safety concerns, other overriding public interest, unreasonable hardship, or constraints that deny a reasonable use of the property.

11. No Loss Decision¹³³

a. Application

A landowner unsure if proposed work will result in a loss of wetlands may apply for a no-loss decision as specified in Minn. R. pt. 8420.0315.

b. Decision

- 1) No-loss decisions, under Minn. R. pts. 8420.0410 and 8420.0415, shall be made by the Community Development Director.
- 2) The Community Development Director may seek the advice of the technical evaluation panel on questions of wetland delineation and type.

c. Appeal

- 1) The Community Development Director's decision is final unless appealed to the City Council within 30 days after written notice of the Community Development Director's decision is sent to those required to receive notice of the decision.
- 2) The landowner applying for a no-loss decision is responsible for submitting the proof necessary to show qualification for this determination. The authority granted by the decision shall be stayed during the time an appeal is pending before the State Board of Water and Soil Resources.

12. Sequencing and Replacement Plan Decision¹³⁴

- a. A landowner intending to impact a wetland who does not qualify for an exemption or no-loss decision shall obtain approval of a replacement plan from the City Council. An applicant may either submit the information required for sequencing analysis as part of a replacement plan application or apply separately for a preliminary sequencing decision from the local government unit before preparing a complete replacement plan.
- b. The sequencing decision, where submitted separately from the replacement plan under Minn. R. pt. 8420.0325 and sequencing flexibility under Minn. R. pt. 8420.0520,

¹³² Source: Rochester Code of Ordinances 6.3.14.

¹³³ Source: Rochester Code of Ordinances 6.3.8. Re-organized.

¹³⁴ Source: Rochester Code of Ordinances 6.3.9. Re-organized.

subpt. 7a, shall be made by the Community Development Director. Replacement plans intended to mitigate wetland impacts within the City must involve the creation or restoration of wetlands located within the county.

c. Replacement Plans

- 1) No person may impact a wetland, wholly or partially, without being eligible for an exemption or no-loss, or first receiving approval of a wetland replacement plan as specified in Minn. R. pt. 8420.0500.
- 2) A landowner proposing a wetland impact that requires replacement must apply to the City and receive approval of a replacement plan before impacting the wetland.

d. Sequencing and replacement plan decisions under Minn. R. pts. 8420.0325, 8420.0330, and 8420.0500–8420.0544 and decisions regarding exceptions under Section 60.200.040E.8, *Special Protection Areas* shall be made pursuant to the following procedures:

- 1) Application for wetland replacement plans must be submitted to the Community Development Director. The contents of the plan shall comply with Minn. R. pt. 8420.0330.
- 2) The Community Development Director must determine that an application is complete based on Minn. R. pts. 8420.0305–8420.0330.
- 3) The Community Development Director shall, within 15 days of a complete application, transmit a copy of the application and notice of application to members of the technical evaluation panel, the Commissioner, and members of the public who have requested a copy.
- 4) The Community Development Director shall schedule a review before the City Council to consider the application. Prior to City Council review, the Community Development Director shall prepare a report recommending approval, approval with conditions, or disapproval of the proposed replacement plan.
- 5) The City Council shall act upon the application in conformance with Minn. Stats. 15.99. The City Council may approve, approve with conditions, or disapprove the replacement plan application.
- 6) The City Council must base its decisions on the replacement standards in Minn. R. pts. 8420.0500–8420.0544, and on the recommendation of the technical evaluation panel as specified in Minn. R. pt. 8420.0240. The City Council must consider comments received from those required to receive notice.
- 7) The decision of the City Council shall be mailed to all parties as stated in this Section and to the landowner within 10 business days. The mailing to the applicant must include information on the process and time period to appeal the decision of the City Council.

13. Monitoring¹³⁵

Monitoring of replacement wetlands is the responsibility of the landowner of the property where the replacement wetland is located. The Community Development Director shall

¹³⁵ Source: Rochester Code of Ordinances 6.3.10.

ensure that the replacement plan monitoring and enforcement requirements of Minn. R. pt. 8420.0810 shall be fulfilled. The technical evaluation panel must review replacement wetland monitoring reports as provided in Minn. R. pts. 8420.800–8420.0820.

14. Wetland Monitoring¹³⁶

- a. Wetlands may be restored or created within the City for purposes of deposit in the wetland bank in accordance with Minn. R. pts. 8420.0700–8420.0755. The Community Development Director is responsible for approving bank plans, certifying deposits, and the monitoring of banked wetlands and enforcement under the Minnesota Rules.
- b. Only wetland credits from wetland banks within the county may be used for wetland replacement when wetland within the City is impacted.

15. Fees¹³⁷

The City Council shall, by resolution, adopt a schedule of fees applicable to wetland delineation applications, no-loss applications, exemption applications, sequencing applications, replacement plan applications, banking plan applications, and monitoring reports submittals. The amount of the fees shall not exceed the reasonable value of the functions undertaken by the LGU.

16. Appeals¹³⁸

- a. Decisions made under this Section by the Community Development Director may be appealed to the City Council. An appeal must be filed within 10 days after the date that the decision is sent to those required to receive notice of the decision. Except for decisions related to Edge Support Areas, decisions of the City Council may be appealed to the State Board of Water and Soil Resources under Minn. R. pt. 8420.0905 after final determination by the City Council.
- b. A landowner or responsible party may appeal the terms and conditions of a restoration or replacement order issued according to Minn. R. pt. 8420.0905 to the State Board of Water and Soil Resources executive director within 30 days of receipt of the order.

17. Delegation¹³⁹

The City may, by joint powers agreement, delegate to the Soil and Water Conservation District under Minn. Stats. §§471.59 and 103C.331, subd. 19, the authority to administer all or any part of this Section.

¹³⁶ Source: Rochester Code of Ordinances 6.3.11.

¹³⁷ Source: Rochester Code of Ordinances 6.3.12. An explanation of the acronym 'LGU' is required.

¹³⁸ Source: Rochester Code of Ordinances 6.3.13.

¹³⁹ Source: Rochester Code of Ordinances 6.3.16.

F. FPO – Floodplain Overlay¹⁴⁰

1. Purpose¹⁴¹

- a. The purpose of the FPO district is to guide development in the flood hazard areas of Rochester consistent with the flood threat, in order to minimize loss of life and property, disruption of commerce and governmental services, extraordinary public expenditure for public protection and relief, impairment of the tax base and interruption of transportation and communication, all of which adversely affect the public health, safety and general welfare.
- b. The regulations are also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.
- c. The FPO district regulations are adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 C.F.R. pts. 59 -78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.

d. Flood Fringe Subdistrict Purpose¹⁴²

The purpose of the Flood Fringe subdistrict is to ensure that uses and structures within the subdistrict are properly flood protected, consistent with accepted principles and standards for flood protection, resulting in developments that will suffer minimal damage from flooding and are of such a nature so as to have a minimal effect on the ability of the floodplain to discharge flood waters.

e. Floodway Subdistrict Purpose¹⁴³

The purpose of the Floodway subdistrict is to ensure that adequate space is retained within the channel and adjoining floodplain to carry and discharge the regional flood, and to restrict or prohibit uses that are dangerous to health or safety, or result in economic loss, in times of flood.

f. Flood Prone Subdistrict Purpose¹⁴⁴

The purpose of the Flood Prone subdistrict is to guide development in generally undeveloped areas of the floodplain in such a manner so as to reduce the loss of flood storage volume in the flood plain, and to avoid increases in downstream flood levels and in the velocity of flood waters.

¹⁴⁰ The FPO district consolidates the three current floodplain-related districts (floodway, flood prone, and flood fringe). It carries forward those three districts as subdistricts within the FPO district. It converts those base districts into an overlay. Standards were lightly edited because additional discussion with staff is required. As noted in the Assessment, provisions related to procedures will be included in that Section of the UDC and not here. Specific provisions related to manufactured homes were not carried forward. These standards should be discussed further, specifically as it relates to the County's current update to these standards. Although some of this content is poorly organized (and could be improved) we are hesitant to do that before discussing the structure of the County's regulations or the structure of any state model regulations.

¹⁴¹ Source: 62.800. Removed a repetitive provision on minimizing disruptions.

¹⁴² Source: 62.801.

¹⁴³ Source: 62.802.

¹⁴⁴ Source: 62.803.

2. Designation¹⁴⁵

- a. Each individual flood subdistrict represents a set of regulations superimposed upon the existing zoning districts, superseding existing underlying regulations only to the extent that developments must meet the additional standards of the FPO district as well as those of the underlying district in order to be in compliance with this UDC.
- b. The Flood Fringe (FF), Floodway (FW), and Flood Prone (FP) subdistricts are identified upon the zoning map, and reference to the status of any property located in one of the flood related districts is made by the district symbol (FF, FW, or FP) being post fixed to a use district symbol (examples R-I/FF, B- 4/FW, M-2/FP). (Refer to **[insert x-ref in later installment]** - Designation of Annexed Property: Floodway and Flood Fringe[.])
- c. To aid in the identification and designation of properties in the flood related districts, certain materials are attached and hereby adopted by reference and declared to be part of this UDC including the Flood Insurance Study for Olmsted County, Minnesota, and Incorporated Areas, and the Flood Insurance Rate Map for Olmsted County and Incorporated Areas, all dated April 19, 2017 and prepared by the Federal Emergency Management Agency, including the following panels: 27109C0141F, 27109C0142F, 27109C0143E, 27109C0144F, 27109C0153F, 27109C0154F, 27109C0155E, 27109C0158E, 27109C0161F, 27109C0162F, 27109C0163F, 27109C0164F, 27109C0166F, 27109C0168F, 27109C0169E, 27109C0282F, 27109C0301F, 27109C0302F, 27109C0304E, 27109C0306F, 27109C0307E, and 27109C0313E.
- d. **Designation of the Floodway Subdistrict¹⁴⁶**
 - 1) The floodway subdistrict standards shall apply to all lands designated as floodway on the Flood Insurance Rate Map adopted in Section 60.200.040F.2, *Designation*. The Floodway subdistrict also includes those areas designated as Zone A (that do not have a floodway designation) on the Flood Insurance Rate Map.
 - 2) For lakes, wetlands, and other basins, the Floodway subdistrict includes those areas that are at or below the ordinary high-water level as defined in Minn. Stat. §103G.005, subd. 14.
- e. **Designation of the Flood Fringe Subdistrict¹⁴⁷**
 - 1) The Flood Fringe subdistrict includes those areas within Zone AE and designated as floodway fringe, or within Zone AO on the Flood Insurance Rate Map adopted in this Section and were within the corporate boundaries of the City prior to November 3, 1980.
 - 2) For lakes, wetlands, and other basins (that do not have a floodway designated), the Flood Fringe subdistrict includes those areas designated as Zone AE on the Flood Insurance Rate Map panels adopted in this Section that are below the 1

¹⁴⁵ Source: 62.810.

¹⁴⁶ Source: 62.811.

¹⁴⁷ Source: 62.812.

percent annual chance (100-year) flood elevation but above the ordinary high water level as defined in Minn. Stat., §103G.005, subd. 14.

f. Designation of the Flood Prone Subdistrict¹⁴⁸

The Flood Prone subdistrict includes those areas designated as floodway fringe on the Flood Insurance Rate Map adopted in this Section, as being within Zone AE but being located outside of the floodway, and were annexed on or after November 3, 1980, except as determined by the provisions of [insert x-ref in later installment - 60.3501].

3. Warning and Disclaimer of Liability¹⁴⁹

- a. The degree of flood protection intended to be provided by the UDC is considered reasonable for regulatory purposes and is based on engineering and other specific methods of study.
- b. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes, such as ice jams or bridge openings restricted by debris.
- c. The UDC does not imply that areas outside of designated floodplain districts or land uses permitted within such districts will always be totally free from flooding or flood damages. Nor shall the UDC create a liability on the part of or be a cause of action against the City of Rochester or any employee thereof for any flooding or flood damages that may result from reliance on the UDC.

4. Reclamation¹⁵⁰

Nothing herein shall be so construed as to prohibit the lawful rehabilitation or reclamation of any lands outside of the floodway, provided that no filling, draining, construction of levees, or other improvements intended to eliminate or reduce the danger of the flood or erosion shall be commenced until first reviewed and authorized by the Community Development Director and the Commissioner, and, if revisions to floodplain maps or designations are proposed, by the Federal Emergency Management Agency.

5. Right of Passage¹⁵¹

No person may obstruct the passage of water and watercraft nor restrict the lawfully permitted use by the public of the bed, banks, water, and floodway of any stream within the City.

6. Floodplain Limits¹⁵²

Where a conflict exists between the floodplain limits illustrated on the official zoning map and actual field conditions including the natural or pre-existing grades, the map flood elevations shall be the governing factor in locating the regulatory floodplain limits.

7. Designation of Floodway in A Zones¹⁵³

In A zones without a floodway, the floodway may be delineated using the following procedures. Areas identified through these procedures as flood fringe may then be

¹⁴⁸ Source: 62.813.

¹⁴⁹ Source: 62.814.

¹⁵⁰ Source: 62.815.

¹⁵¹ Source: 62.816.

¹⁵² Source: 62.817.

¹⁵³ Source: 62.818.

reclassified as Flood Fringe subdistrict and will then be subject to the requirements of the Flood Fringe subdistrict. The area determined to be Floodway shall be subject to the requirements of the Floodway subdistrict.

- a. Upon receipt of an application for a permit or other approval, the Community Development Director must obtain, review, and reasonably utilize any regional flood elevation and floodway data available from a federal, state, or other source.
- b. If regional flood elevation and floodway data are not readily available, the applicant must furnish additional information, as needed, to determine the regulatory flood protection elevation and whether the proposed use would fall within the Floodway or Flood Fringe subdistrict. Information must be consistent with accepted hydrological and hydraulic engineering standards and the standards in Subsection c below.
- c. The determination of floodway and flood fringe must include the following components, as applicable:
 - 1) Estimate the peak discharge of the regional (1 percent chance) flood.
 - 2) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
 - 3) Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A lesser stage increase than 0.5 foot is required if, as a result of the stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach must be assumed in computing floodway boundaries.
- d. The Public Works Director will review the submitted information and assess the technical evaluation and the recommended Floodway and/or Flood Fringe subdistrict boundary. The assessment must include the cumulative effects of previous floodway encroachments. The Public Works Director may seek technical assistance from a designated engineer or other expert person or agency, including the Department of Natural Resources. Based on this assessment, the Public Works Director may approve or deny the application.¹⁵⁴

8. Uses Permitted¹⁵⁵

- a. The regulations within this Section establish those uses that are permitted in each of the flood districts, subject to the further restriction that no proposed use is permitted if it is not permitted in the underlying zoning district. No person may establish a use in a flood district that is not otherwise permitted in that district by the following Subsections, or that is not permitted in the underlying zoning district, and for any person to do any grading or filling in the flood district without first obtaining all necessary permits and approvals.
- b. Any facility that will be used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity

¹⁵⁴ Changed from a Zoning Administrator responsibility to the Public Works Director.

¹⁵⁵ Source: 62.830. Introductory text reworded to avoid reference to “misdemeanor”; violations and penalties will be addressed in Installment 3. Re-organized the content.

(in feet per second) would exceed a product of four upon occurrence of the regional (1 percent chance) flood.

c. Flood Prone and Floodway Uses¹⁵⁶

Permitted uses are the following uses that have a low flood damage potential and do not obstruct flood flows. These uses are permitted within the Floodway and Flood Prone subdistricts to the extent that they are not prohibited by the underlying zoning district or any other ordinance and provided they do not require structures, fill, or storage of materials or equipment. In addition, no use shall adversely affect the capacity of the channel or floodways of any tributary to the main stream, or of any drainage ditch or other drainage facility.

- 1) Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
- 2) Industrial-commercial uses such as loading areas, parking areas, billboards, airport landing strips.
- 3) Private and public recreational uses such as golf courses, tennis courts, driving ranges, picnic grounds, boat launching ramps, swimming area, parks, wildlife and nature preserves, fishing areas, recreational trails.
- 4) Residential uses such as lawns, gardens, parking areas, and recreation areas.
- 5) Channel Modifications requiring a DNR permit where there is no change in the flood profile.

d. Flood Fringe Uses¹⁵⁷

Uses permitted in the Flood Fringe subdistrict are the same as those permitted by the underlying zoning district, subject to meeting the construction standards in this Section 60.200.040F.

e. Floodway Conditional Uses¹⁵⁸

The following uses involving structures (temporary or permanent), fill, or the storage of materials or equipment, are permitted in the Floodway subdistrict only after a Conditional Use permit is obtained.

¹⁵⁶ Source: 62.831. Additional exemptions for public uses like trails may be included.

¹⁵⁷ Source: 62.832.

¹⁵⁸ Source: 62.833.

- 1) Structures accessory to open space or conditional uses.
- 2) Placement of fill.
- 3) Extraction of sand, gravel, and other minerals.
- 4) Marinas, boat rentals, docks, and water control structures.
- 5) Railroads, streets, bridges, utility transmission lines and pipelines, provided that the Department of Natural Resources' Area Hydrologist is notified at least ten days prior to issuance of any permit.
- 6) Storage yards for equipment, machinery or material.
- 7) Other uses similar in nature to uses described in Section 60.200.040F.8.c, *Flood Prone and Floodway Uses* or this Subsection that are consistent with the purpose of the Floodway subdistrict.

f. Flood Prone Conditional Uses¹⁵⁹

In the Flood Prone subdistricts, uses permitted in the underlying zoning district are allowed subject to City Council, in addition to the following provisions: All developments are subject to the applicable provisions of [insert x-ref in later installment], except those uses established subject to the alternate construction standards of [insert x-ref in later installment] and shall also meet the further regulations of [insert x-ref in later installment] before a permit may be issued.

g. Adverse Effect on Unspecified Floodway¹⁶⁰

Floodplain development should not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.

h. Critical Facilities¹⁶¹

Critical Facilities are prohibited in the FPO district.

9. Flood Fringe Construction Standards¹⁶²

Uses located in the Flood Fringe subdistrict, to the extent that they are not prohibited by any other portion of the UDC, shall be constructed as regulated by this Subsection and in such a manner so as to not adversely affect the capacity of any public water or any other drainage facility or system.

a. Standard for Primary Buildings¹⁶³

The following standards shall apply to the construction of primary buildings in the Flood Fringe subdistrict:

Dwellings

- (a) New dwellings shall be constructed on fill so that the lowest floor (including basement) is at or above the flood protection elevation.

¹⁵⁹ Source: 62.834.

¹⁶⁰ Source: 62.835.

¹⁶¹ Source: 62.836.

¹⁶² Source: 62.840.

¹⁶³ Source: 62.841.

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- (b) The finished fill elevation shall be no lower than one foot below the flood protection elevation and shall extend at such elevation at least 15 feet beyond the limits of any structure or building thereon.
 - (c) Residential additions that constitute less than 25 percent of the square footage of the first floor may construct the addition at or above the regional flood elevation.
 - (d) Residences that do not have vehicular access at or above an elevation not more than two feet below the flood protection elevation shall not be permitted.
 - (e) If a variance to the access requirement is granted, the Board of Appeals must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.

Non-Residential Uses

New structures shall be elevated so that their first floor (including basement) is at or above the flood protection elevation. The finished fill elevation shall be no lower than one foot below the flood protection elevation.

b. Standards for Public Works¹⁶⁴

The following standards shall apply to the construction of new public works in the Flood Fringe subdistrict:

Waste Treatment and Flood Control Structures

- (a) No new construction, addition, or modification to existing waste treatment facilities shall be permitted within the flood fringe unless emergency plans and procedures for action to be taken in the event of flooding are prepared, filed with, and approved by the Minnesota Pollution Control Agency.
- (b) The emergency plans and procedures must provide for measures to prevent introduction of any pollutant or toxic material into the flood waters.

Utilities, Railroad Tracks, Streets, and Bridges

- (c) Public utility facilities, roads, railroad tracks, and bridges within the Flood Fringe subdistrict shall be designed to minimize increase in flood elevations and shall be compatible with local comprehensive floodplain development plans.
- (d) Protection to the flood protection elevation shall be provided where failure or interruption of these public facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area.
- (e) Where failure or interruption of services would not endanger life or health, a lesser degree of protection may be provided for minor or auxiliary roads, railroads, or utilities.

¹⁶⁴ Source: 62.842.

c. **Standards for Accessory Uses and Structures**¹⁶⁵

The following standards shall apply to the construction of accessory structures and the use of land for accessory purposes:

Accessory Structures

Such structures shall be constructed on fill so that the lowest floor is at or above the flood protection elevation or may be permitted below the flood protection elevation provided that such structures are:

- (a) Not designed for human habitation;
- (b) Designed to have low flood damage potential;
- (c) Constructed and placed on the building site so as to offer the minimum resistance to the flood or floodwaters; and
- (d) As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet for the outside dimension at ground level may be internally flood proofed to the FP-3 or FP-4 standards in accordance with the state building code. To meet this requirement, detached garages must be used solely for parking of vehicles and limited storage. All such structures must meet the following standards:
 - (i) To allow for the equalization of hydrostatic pressure, there must be a minimum of two “automatic” openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - (ii) There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic opening;
 - (iii) The structure must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls; and
 - (iv) Any mechanical and utility equipment in a structure must be elevated to or above the Regulatory Flood Protection Elevation or properly flood proofed.

Storage of Materials

The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Community Development Director.

¹⁶⁵ Source: 62.843.

Accessory Land Uses

Accessory land uses for non-residential uses, such as storage yards and parking lots, that are at elevations below the flood protection elevation shall not be permitted without a flood warning system that provides adequate time for evacuation of the area if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (one percent chance) flood.

d. Alternate Construction Standards¹⁶⁶

Alternate standards for the construction of residential and non-residential uses is permitted as follows:

Residential Uses

- (a) Where existing streets, utilities, or small lot size preclude the use of fill, other methods of elevating the first flood (including basement) above the flood protection elevation may be authorized by the issuance of a Conditional Use Permit.
- (b) These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade enclosed areas such as crawl spaces or tuck-under garages.
- (c) The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if:
 - (i) The enclosed area is above-grade on at least one side of the structure;
 - (ii) It is designed to internally flood and is constructed with flood resistant materials; and
 - (iii) It is used solely for parking of vehicles, building access or storage.
- (d) The above-noted alternative elevation methods are subject to the following additional standards:
 - (i) The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities must be at or above the Regulatory Flood Protection Elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.
 - (ii) Above-grade, fully enclosed areas such as crawl spaces or tuck-under garages must be designed to internally flood and the design must stipulate:
 - 1. The minimum area of openings in the walls where internal flooding is to be used as a flood proofing technique. There shall be a minimum of two openings on at least two sides of the structure and the bottom of

¹⁶⁶ Source: 62.844.

all openings shall be no higher than one foot above grade. The automatic openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. When openings are placed in a structure's walls to provide for entry of flood waters to equalize pressures, the bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters without any form of human intervention.

2. That the enclosed area will be designed of flood resistant materials in accordance with FP-3 or FP-4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.

Non-Residential Uses

- (e) All areas of non-residential structures, including basements, to be placed below the Regulatory Flood Protection Elevation shall be flood proofed in accordance with the structurally dry flood proofing classifications in the State Building Code.
- (f) Structurally dry flood proofing must meet the FP-1 or FP-2 flood proofing classification in the State Building Code, without the use of dikes, dams or levees, and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- (g) Structures flood proofed to the FP-3 or FP-4 standards shall not be permitted. Whenever the Community Development Director determines that a particular use may constitute an unusual hazard in the flood fringe, he may require the issuance of a conditional use permit as provided in [insert x-ref in later installment] - Section 62.820].

e. Basements¹⁶⁷

Basements shall be subject to the following:

- 1) Residential basement construction shall not be allowed below the Regulatory Flood Protection Elevation.
- 2) Non-residential basements may be allowed below the Regulatory Flood Protection Elevation provided the basement is structurally dry flood proofed in accordance with [insert x-ref in later installment].

f. Additional Development Standards¹⁶⁸

The standards in this Subsection f shall apply to the uses indicated. These standards are imposed in addition to any other applicable FPO standards.

¹⁶⁷ Source: 62.845.

¹⁶⁸ Source: 62.846.

Manufacturing and Industrial Uses

- (a) Manufacturing and industrial buildings, structures and appurtenant works shall be protected to the flood protection elevation.
- (b) Measures shall be taken to minimize interference with normal plant operations, especially for streams having prolonged flood durations.
- (c) In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in floodplain areas.

Fill

- (d) Fill shall be properly compacted, and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. Permanent sand and gravel operations and similar uses must be covered by a long-term site development plan as approved under other provisions of this UDC. The cumulative placement of fill where at any one time in excess of 1,000 cubic yards of fill is located on the parcel shall be allowable only as a conditional use, unless said fill is specifically intended to elevate a structure in accordance with [insert x-ref in later installment].
- (e) When at any time more than 1,000 cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the community is enforcing a state approved shoreland management ordinance. In the absence of a state approved shoreland management ordinance, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100 year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the Community Development Director. The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.

Garbage and Solid Waste Disposal

There shall be no disposal of garbage or solid waste materials within Flood Fringe areas. No conditional use permits for garbage and waste disposal sites shall be issued for Flood Fringe subdistrict. There shall be no further encroachment upon the floodplain at existing sites.

On-site Water Supply and Sewage Treatment Systems¹⁶⁹

Where public utilities are not provided:

- (f) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems and are subject to the provisions in Minn. R. Ch. 4725.4350, as amended; and

¹⁶⁹ Source: 62.848.

-
- (g) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, they must not be subject to impairment or contamination during times of flooding, and are subject to the provisions in Minn. R. Ch. 7080.2270, as amended

10. Floodway Construction Standards¹⁷⁰

No structures (temporary or permanent); fill, including fill for roads and levees; deposits, obstructions, storage of materials or equipment; or other uses allowed as Conditional Uses that, acting alone or in combination with existing or future uses, cause any increase in the stage of the one percent chance or regional flood or cause an increase in flood damages in the reach or reaches affected, shall be permitted. Consideration of the effects of a proposed use shall be based on a reasonable assumption that there will be an equal degree of encroachment extending for a significant reach on both sides of the stream. In addition, all floodway conditional uses shall be subject to the regulations in the following paragraphs.

a. Fill¹⁷¹

- 1) Any fill deposited in the floodway shall be no more than the minimum amount necessary to conduct a Conditional Use listed in Section 60.200.040F.8.e, *Floodway Conditional Uses*.
- 2) Generally, fill shall be limited to that needed to grade or landscape for that use and shall not in any way obstruct the flow of flood waters or cause any increase in flood elevations.
- 3) Such fill or other material shall be protected against erosion by rip-rap, vegetative cover or bulkheading. Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted that includes an erosion/sedimentation prevention element to the plan.

b. Structures¹⁷²

Accessory structures (temporary or permanent) approved by the Planning Commission shall be subject to the following standards:

- 1) Not designed for human habitation;
- 2) Designed to have low flood damage potential;
- 3) Constructed and placed on the building site so as to offer the minimum resistance to the flood or floodwaters;
- 4) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow; and
- 5) So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.

c. Accessory Structures¹⁷³

¹⁷⁰ Source: 62.850.

¹⁷¹ Source: 62.851.

¹⁷² Source: 62.852.

¹⁷³ Source: 62.852.

- 1) Accessory structures shall be structurally dry flood proofed in accordance with the FP-1 or FP-2 flood proofing classifications in the State Building Code. All flood proofed accessory structures must meet the following additional standards as appropriate:
 - (a) The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls.
 - (b) Any mechanical and utility equipment in a structure must be elevated to or above the Regulatory Flood Protection Elevation or properly flood proofed.
 - 2) As an alternative, an accessory structure may be internally/wet floodproofed to the FP3 or FP4 floodproofing classifications in the State Building Code provided the accessory structure constitutes a minimal investment and that does not exceed 500 square feet for the outside dimension at ground level. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the standards in Subsection 1). To meet this requirement, detached garages must be used solely for parking of vehicles and limited storage.
 - (a) To allow for the equalization of hydrostatic pressure, there must be a minimum of two “automatic” openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
 - (b) There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.
- d. **Utilities, Railroad Tracks, Streets, and Bridges¹⁷⁴**
- 1) Public utility facilities, roads, railroad tracks, and bridges within the floodway district shall be designed to minimize increases in flood elevations and shall be compatible with local comprehensive floodplain development plans. Such facilities must comply with Section 60.200.040F.10, *Floodway Construction Standards*.
 - 2) Protection to the flood protection elevation shall be provided where failure or interruption of these public facilities are essential to the orderly functioning of the area.
 - 3) Where failures or interruption of service would not endanger life or health, a lesser degree of protection may be provided for minor or auxiliary roads, railroads or utilities.
- e. **Storage of Material and Equipment¹⁷⁵**
- The storage or processing of materials that are in time of flooding buoyant, flammable, explosive or that could be injurious to human, animal or plant life, or that are likely to cause pollution of waters, as defined by Minn. Stat. §115.01, if subject to floating, is prohibited.

¹⁷⁴ Source: 62.853.

¹⁷⁵ Source: 62.854.

f. Garbage and Solid Waste Disposal¹⁷⁶

No conditional use permits for garbage and waste disposal sites shall be issued for floodway areas. There shall be no further encroachment upon the floodway at existing sites.

g. Structural Works for Flood Control¹⁷⁷

Structural works for flood control such as levees, dikes, floodwalls, and reservoirs shall be allowed after Council approval, and compliance with the following:

- 1) Any proposed structural work in the beds of public waters, as defined in Minn. Stat. Ch. 105, that will change the course, current, or cross-section of the waters shall be subject to the provisions of Minn. Stat. Ch. 105, and other applicable statutes.
- 2) When necessary, a permit from the Army Corps of Engineers certifying compliance with Section 404 of the Clean Waters Act shall be obtained, along with any other necessary permits.

h. On-Site Water Supply and Sewage Treatment Systems¹⁷⁸

Where public utilities are not provided:

- 1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems and are subject to the provisions in Minn. R. Ch. 4725.4350, as amended; and
- 2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, they must not be subject to impairment or contamination during times of flooding, and are subject to the provisions in Minn. R. Ch. 7080.2270, as amended

11. Flood Prone Construction Standards¹⁷⁹

The requirements applicable in the Flood Fringe subdistrict, shall apply in the Flood Prone subdistrict. In addition, the deposition of any fill or spoil from dredging of sand and gravel operations, the construction of any structure, or the grading or paving of any areas shall require certification by a registered professional engineer or hydrologist that the following conditions have been met:

- a. Fill deposited in the Flood Prone subdistrict shall be no more than the minimum amount necessary to conduct the use.
- b. No net loss of capacity for surface storage of flood waters shall result from the activity.
- c. The effect of such activities in the Flood Prone area shall not result in an increase in erosion potential on the site.

¹⁷⁶ Source: 62.855.

¹⁷⁷ Source: 62.856.

¹⁷⁸ Source: 62.857.

¹⁷⁹ Source: 62.860.

G. SDO – Shoreland District Overlay¹⁸⁰

1. Purpose¹⁸¹

The SDO is intended to protect and preserve the public waters and shorelands in Rochester by reducing the pollution in public waters. The Legislature of Minnesota has delegated responsibility to local governments within the state to regulate the subdivision, use, and development of the shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources. This responsibility is hereby recognized by the City of Rochester.

2. Applicability

The following standards related to the Protected Waters Inventory Map for Olmsted County, Minnesota, which is hereby adopted by reference as part of this UDC. This Shoreland Ordinance is adopted pursuant to the authorization and policies contained in Minn. Stat. Ch. 103F, Pts. 6120.2500-6120.3900 and the planning and zoning enabling legislation in Minn. Stat. Ch. 462.

a. Where the SDO Applies and Classifications¹⁸²

- 1) The public waters of the City have been classified consistent with the criteria found in Minn. R. Pt. 6120.3300, and the Protected Waters Inventory Map for Olmsted County, Minnesota.
- 2) The following areas are included in the SDO as classified below and identified in the Official Zoning Map:
 - (a) **Urban**
South Fork Zumbro River - From T.H. 52 bridge to North City Limit Boundary.
 - (b) **Agricultural**
South Fork Zumbro River - From T.H. 52 bridge westerly to West City Limit Boundary.
 - (c) **Tributary**
All public rivers and streams shown on the Public Waters Inventory Map for Olmsted County in the City, a copy of which is adopted by reference, not given a classification above and not exempted in Section 60.200.040G.2.b shall be considered “Tributary.”

b. Where the SDO Does Not Apply¹⁸³

- 1) Pursuant to Minn. R. Pts. 6120.2500 and 6120.3900, no lake, pond, or flowage less than 10 acres is required to be regulated by the local government's shoreland regulations.

¹⁸⁰ Minor edits were made throughout the SDO that align with Staff recommendations. Additional substantive edits will be made during the Consolidated Draft to align these standards with the DNR Shoreland Model Ordinance.

¹⁸¹ Source: 62.1000. Edited for clarity and consistency.

¹⁸² Source: 62.1002.

¹⁸³ Source: 62.1001.

- 2) A body of water created by a private user where there was no previous shoreland may, at the discretion of the governing body, be exempt from the shoreland provisions.
- 3) The following reaches of stream are exempt from the SDO:
 - (a) South Fork Zumbro River from the centerline of the T.H. 52 bridge to the centerline of the 37th Street NW bridge.
 - (b) Silver Creek corridor from the eastern boundary of Quarry Hill park to its confluence with the South Fork Zumbro River.
 - (c) Bear Creek from the centerline of the T.H. 14 bridge downstream to its confluence with the South Fork Zumbro River.
 - (d) Cascade Creek from the centerline of the T.H. 52 bridge downstream to its confluence with the South Fork Zumbro River.
 - (e) Willow Creek from the centerline of 40th Street SW, downstream to the western boundary of Section 24, T106N, R14W, Rochester Township.
 - (f) North Run of the North Fork Cascade Creek from the centerline of 7th Street NW to its confluence with Cascade Creek.

3. Lot Area, Width, and Density Standards¹⁸⁴

- a. The use of private sewage disposal systems and private water supply to serve any new development within the City is subject to the requirements of [insert x-ref in later installment] of the UDC. In addition, the lot width requirements in [insert x-ref in later installment] must be met.
- b. River/stream segments shall meet the base zone district lot area requirements and the following lot width standards:

Dwelling Type	Agricultural	Urban/Tributary (Sewered)	Urban/Tributary (Unsewered)
Single	150 feet	75 feet	100 feet
Duplex	225 feet	115 feet	100 feet
Triplex	300 feet	150 feet	200 feet
Quad	375 feet	190 feet	250 feet

- c. Residential developments located within 300 feet of the Ordinary High Water Level of a lake or stream shall not exceed a base density of four units/acre of land within the development (this is to include any portion of a proposed lot).
- d. Lands located beyond 300 feet of the Ordinary High Water Level will be subject to the underlying zoning district density requirements.
- e. Lots intended as controlled accesses to public waters or as recreation areas for use by owners of non-riparian lots may be platted as outlots. Outlots do not need to meet the applicable lot area requirements, but shall meet the minimum lot width standards.

¹⁸⁴ Source: 62.1004.

4. Placement, Design, and Height of Structures¹⁸⁵

- a. Impervious surface coverage of lots shall not exceed 25 percent of the lot area.¹⁸⁶
- b. When more than one setback applies to a site, structures and facilities must be located to meet all setbacks.
- c. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone.
- d. Structure and on-site sewage system shall be set back from the Ordinary High Water Level at least the following distances:¹⁸⁷

River Type	Minimum Setback
Agricultural	100 feet
Urban	50 feet
Tributary	75 feet

e. Cascade Lake Flexibility Area

- 1) The public waters bounded by T.H. 14 along the north side, CSAH 34 along the south side, T.H. 52 along the east side, and CSAH 22 along the west side (known as Cascade Lake) have been granted flexibility to the shoreland setback requirements to reduce the required structure setbacks to 40 feet from the Ordinary High Water Level of the public water bodies.
- 2) One water oriented accessory structure designed in accordance with the provisions of [insert x-ref in later installment] of this UDC may be set back a minimum distance of 10 feet from the Ordinary High Water Level.

f. Additional Structure Setbacks

The following additional minimum structure setbacks also apply, regardless of the classification of the waterbody.

Setback Type	Minimum Setback
Top of Bluff	30 feet
Unplatted Cemetery	50 feet

g. Bluff Impact Zones

- 1) Structures and accessory facilities, except stairways and landings, shall not be placed within bluff impact zones.
- 2) The height of all structures shall meet the underlying zoning district height requirements.

¹⁸⁵ Source: 62.1005.

¹⁸⁶ Source: 62.1008.

¹⁸⁷ These river type designations may be changed to sewer distinction.

h. Design Criteria for Structures

High Water Elevations

Structures shall be located to comply with any floodplain regulations applicable to the site. Where floodplain controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood proofed shall be determined as follows:

- (a) For lakes, by placing the lowest floor at a level at least three feet above the highest known water level, or three feet above the Ordinary High Water Level, whichever is higher;
- (b) For rivers and streams the following applies:
 - (i) If data is available, by placing the lowest floor at least three feet above the flood of record;
 - (ii) If data is not available, by placing the lowest floor at least three feet above the Ordinary High Water Level; or
 - (iii) By conducting a technical evaluation to determine the effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation.
 - (iv) Under all three approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with parts 6120.5000 to 6120.6200 governing the management of flood plain areas.
 - (v) If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities; and
- (c) Water oriented accessory structures may have the lowest floor placed lower than the elevation determined in this item if the structure is constructed of flood resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation, and if long duration flooding is anticipated, the structure is built to withstand ice action and wind driven waves and debris.

Water Oriented Accessory Structures

Each lot may have one water oriented accessory structure not meeting the normal structure setback in [insert x-ref in later installment] of this UDC if this water oriented accessory structure complies with the following:

- (d) The structure or facility must not exceed 10 feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed eight feet above grade at any point;
- (e) The setback of the structure or facility from the Ordinary High Water Level must be at least 10 feet;
- (f) The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf on conditions;

- (g) The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area;
- (h) The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities; and
- (i) As an alternative for general development and recreational development waterbodies, water oriented accessory structures used solely for watercraft storage, and including storage of related boating and water oriented sporting equipment, may occupy an area up to 400 square feet provided the maximum width of the structure is 20 feet as measured parallel to the configuration of the shoreline.

Stairways, Lifts, and Landings

Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways, lifts, and landings must meet the following design requirements:

- (j) Stairways and lifts shall not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties or public open space recreational properties;
- (k) Landings for stairways and lifts on residential lots shall not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties or public open space recreational properties;
- (l) Canopies or roofs are not allowed on stairways, lifts, or landings;
- (m) Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;
- (n) Stairways, lifts, and landings shall be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer leaf on conditions, whenever practical; and
- (o) Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that they comply with the dimensional and performance standards of subitems (a) to (e) in addition to the requirements of Minn. R. Ch. 1340.

Significant Historic Sites

No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been gathered and documented in a public repository.

Steep Slopes

- (p) The Community Development Director shall evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes.

-
- (a) When determined necessary by the Community Development Director, conditions shall be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer leaf on vegetation.

5. Shoreland Alterations¹⁸⁸

a. Vegetation Alterations

- 1) Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by [insert x-ref in later installment] of this UDC are exempt from the vegetation alteration standards that follow.
- 2) Removal or alteration of vegetation is allowed subject to the following:
 - (a) Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed.
 - (b) Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located and the proposed clearing is approved pursuant to Section XX (Conditional Use Permit).
 - (c) In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the primary dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water oriented accessory structures or facilities, provided that:
 - (i) The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer leaf on conditions, is not substantially reduced;
 - (ii) Along rivers, existing shading of water surfaces is preserved, and
 - (iii) The above provisions are not applicable to the removal of tree limbs or branches that are dead, diseased, or pose safety hazards.

b. Topographic Alterations/Grading and Filling

- 1) Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this Section

¹⁸⁸ Source: 62.1006.

60.200.040G shall be incorporated into the issuance of permits for construction of the above mentioned items.

- 2) Public roads and parking areas are regulated by [insert x-ref in later installment] of this UDC.
- 3) Notwithstanding Subsections 1 and 2 above, a grading and filling permit will be required for:
 - (a) The movement of more than 10 cubic yards of material on steep slopes and shore and bluff impact zones; and
 - (b) The movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.
- 4) All construction permits, grading and filling permits, conditional use permits, variances, and subdivision approvals shall require compliance with the following standards:
 - (a) Grading or filling within any wetland area shall meet the applicable requirements of the Minnesota Wetlands Conservation Act;
 - (b) Alterations shall be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;
 - (c) Mulches or similar materials shall be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover shall be established as soon as possible;
 - (d) Methods to minimize erosion and to trap sediments before they reach any surface water feature shall be used;
 - (e) Altered areas shall be stabilized to meet the erosion control policies in [insert x-ref in later installment];
 - (f) Fill or excavated material shall not be placed in a manner that creates an unstable slope;
 - (g) Plans to place fill or excavated material on steep slopes shall be reviewed by qualified professionals for continued slope stability and shall not create finished slopes of 30 percent or greater;
 - (h) Fill or excavated materials shall not be placed in bluff impact zones;
 - (i) Any alterations below the Ordinary High Water Level of public waters shall first be authorized by the Commissioner of Natural Resources under Minn. Stat. §103.G.245;
 - (j) Alterations of topography shall only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and
 - (k) Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the riprap is within 10 feet of the Ordinary High Water Level, and the height of the riprap above the Ordinary High Water Level does not exceed three feet.

c. Connections to Public Waters

Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors shall comply with this Section 60.200.040G shoreland controls. Permission for excavations may be given only after the Commissioner of Natural Resources has approved the proposed connection to public waters.

6. Placement and Design of Roads, Driveways, and Parking Areas¹⁸⁹

- a.** Public and private roads and parking areas shall be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters.
- b.** For public roads, driveways, and parking areas, documentation must be provided by a qualified individual that they are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district or other applicable technical materials.¹⁹⁰
- c.** Roads, driveways, and parking areas shall meet structure setbacks and may not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas provided they are designed to minimize adverse impacts.
- d.** Public and private watercraft access ramps, approach roads, and access related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control standards in Sections [insert x-ref in later installment] are met.

7. Stormwater Management¹⁹¹

a. General Standards

- 1)** When possible, existing natural drainageways, wetlands, and vegetated soil surfaces shall be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.
- 2)** Development shall be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas shall be stabilized and protected as soon as possible.
- 3)** When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as dikes, diversion, settling basins, and ponds may be used. Preference shall be given to

¹⁸⁹ Source: 62.1007

¹⁹⁰ Replaced a broader provision.

¹⁹¹ Source: 62.1008.

designs using surface drainage, vegetation, and infiltration rather than buried pipes and manmade materials and facilities.

- 4) Public utility projects located within shoreland areas shall require approval by the Planning Commission, and stormwater management standards will be considered in the review process.

b. Specific Standards

- 1) When constructed facilities are used for stormwater management, documentation shall be provided by a qualified individual that they are designed and installed consistent with the local soil and water conservation district guidelines.¹⁹²
- 2) New constructed stormwater outfalls to public waters shall provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

8. Land Suitability¹⁹³

- a. Each lot created through subdivision procedures in [insert x-ref in later installment] must be suitable in its natural state for the proposed use with minimum alteration, as determined by the Community Development Director.¹⁹⁴
- b. In performing the land suitability analysis, the Community Development Director shall consider:
 - 1) Susceptibility to flooding,
 - 2) Existence of wetlands;
 - 3) Soil and rock formations with severe limitations for development
 - 4) Severe erosion potential;
 - 5) Steep topography;
 - 6) Inadequate water supply or sewage treatment capabilities;
 - 7) Near shore aquatic conditions unsuitable for water based recreation;
 - 8) Important fish and wildlife habitat;
 - 9) Presence of significant historic sites; or
 - 10) Any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the subdivision.
- c. Subdivisions or land must conform to all official controls of the City. If the Community Development Director determines that a variance from UDC standards would be required to approve a subdivision of land that would accommodate an applicant's intended use of the property, the Community Development Director shall find that the land is not suitable for that purpose.¹⁹⁵

¹⁹² Unclear if there is such a district. Further discussion required.

¹⁹³ Source: 62.1009. Application materials list was not carried over in this section, but will appear with other application materials on the City's website.

¹⁹⁴ Revised to clarify that the zoning administrator makes this decision.

¹⁹⁵ Reworded for clarity.

Chapter 60.300 Use Regulations

Commentary

This article contains the standards related to land uses in Rochester and is intended to be reviewed with Chapter 60.200, *Zone Districts*, and with the use definitions in Chapter 60.600. The key element of this article is a new table of allowed uses as recommended in the Assessment. Further discussion precedes that table.

Following the table of allowed uses are several Use-Specific Standards applicable to specific land uses. The final Sections of this article address accessory and temporary uses and structures. Further commentary is provided in each of those Sections.

Modifications to Assessment Recommendations

Some regulations that the Assessment recommended be included in this Chapter were not carried forward because after further consideration the standards are better suited for other Chapters. Those regulations include:

- *Exterior Storage*. The Assessment recommended the codes for exterior storage currently found in the district tables be carried forward in this Chapter; however, we now recommend that those standards be simplified and included in the Development Standards Chapter.
- *Off Street Parking*. Similarly, the Assessment recommended the codes for off street parking currently found in the district tables be carried forward in this Chapter; however, we now recommend that those standards be simplified and included in the Development Standards Chapter.
- *Mixed Use Development*. The mixed use development process in the current LDM is a fairly complex way to grant flexibility to the uses permitted in a district. We recommend that mixed use development be replaced by a Use Table (included in this Chapter) that allows a wider mix of uses in many of the existing and proposed zone district. That basic approach should be supplemented by an unlisted uses provision (included in this Chapter) that allows the Director to approve new and undefined uses that are similar to those listed in the Use Table, and a variance process for Use-Specific Standards (to be included in the Procedures and Administration installment).

Vacant Uses

The current LDM has standards for the adaptive reuse of different types of buildings. The current standards create different criteria and procedural requirements for different uses in different districts to grant flexibility to properties that have been vacant for a long time. These standards were modified into the new “Vacant” use category in the Use Table, which allows for the intent of the current adaptive reuse provisions to be carried forward with simplified standards and procedures. Vacant Structure uses can be approved by the Planning Commission if an existing structure has remained vacant for at least five years and are denoted by a “V” in the Allowed Uses Table. Additional information on the new Vacant Use category can be found in the Introduction Section of this Chapter.

Interim Uses

This new use category allows for City Council to approve uses for a specific period of time in anticipation of a different long-term use of the property being proposed or approved during that time. It helps clarify the difference between approvals that require a public hearing and that, if approved “run with the land” and those that require a public hearing but are intended to expire within a stated time period.

Section 60.300.010 INTRODUCTION

A. Organization of the Table

1. The regulations of this Chapter 60.300 identify the uses allowed in each zone district and the general standards that shall apply to the development of specific uses within each district.¹⁹⁶
2. In Table 300.02-1 (Allowed Uses Table), land uses are classified into general use categories and specific uses based on common functional, product, or physical characteristics such as the type and amount of activity, how goods or services are sold or delivered, and site conditions. This classification provides a systematic basis for assigning present and future land uses into appropriate zoning districts.¹⁹⁷
3. For certain uses, Use-Specific Standards above those imposed by the other Sections of the UDC are applied to address impacts that the specific use may have. In the Allowed Uses Table, an asterisk denotes if a Use-Specific Standard applies.¹⁹⁸

B. Allowed Uses Table¹⁹⁹

1. A “S” in a cell of the Allowed Uses Table indicates the use is permitted after Staff confirmation that the use is available in that zone district and that the use complies with the Use-Specific Standards cross-referenced in the right-hand column of that row of the table. A use that is listed as an S use is also permitted as an accessory use in that zone district.
2. A “P” in a cell of the Allowed Uses Table indicates the use is permitted after Planning Commission approval pursuant to [insert x-ref in later installment] in that zone district, subject to compliance with the Use-Specific Standards cross-referenced in the right-hand column of that row of the table. A use that is listed as an S use is also permitted as an accessory use in that zone district.
3. A “C” in a cell of the Allowed Uses Table indicates the use is permitted after City Council approval pursuant to [insert x-ref in later installment] in that zone district, subject to compliance with the Use-Specific Standards cross-referenced in the right-hand column of that row of the table. The approval of a Conditional Use may not be limited to a period of time, but approval of a time-limited interim use may be available as described in subsection 5 below.²⁰⁰ A use that is listed as an S use is also permitted as an accessory use in that zone district.
4. A “V” in a cell of the Allowed Uses Table indicates that the use is permitted after Planning Commission approval pursuant to [insert x-ref in later installment] provided that it takes place in an existing building or structure that the applicant documents has been vacant for a period of five consecutive years and that it complies with any Use-Specific Standards referenced in the final column of the permitted use table and with all other applicable requirements of the LDM. All uses that were permitted by right when they were established,

¹⁹⁶ Source: 62.100.

¹⁹⁷ New.

¹⁹⁸ Source: 62.113. Modified for consistency.

¹⁹⁹ New. In general, current Type I uses become S uses, Type II become P uses, and Type III become C uses, but each process (particularly Type III) will be significantly simplified in the Procedures and Administration Chapter. See the commentary for more information.

²⁰⁰ Second sentence added to clarify the difference between Conditional and Interim uses.

but that are now listed as a “V” uses will be deemed to have already obtained approval and the City will issue written confirmation of that fact at the request of the property owner.²⁰¹

5. A “I” in a cell of the Allowed Uses Table indicates that the use is permitted as an interim primary use subject to any Use-specific Standards referenced in the right-hand column of that row of the table. Interim uses require approval by City Council, any approval must state a period of time during which the use may operate.²⁰²
6. A “A” in a cell of the Allowed Uses Table indicates that the use is permitted as an accessory use only in support of a permitted use on the site, and subject to the Use-Specific Standards cross-referenced in the right-hand column of that row of the table.
7. A “T” in a cell of the Allowed Uses Table indicates that the use is permitted as a temporary use, subject to the Use-Specific Standards cross-referenced in the right-hand column of that row of the table.
8. A “*” next to a use in the Allowed Uses Table indicates that a Use-Specific Standard cross-referenced in the right-hand column of the table applies to the use in the zone district where the “*” appears. Details about the Use-Specific Standards are in O.
9. A blank cell in the Allowed Use Table indicates that the use is not allowed in that zoning district.

C. Unlisted Uses and Structures²⁰³

When a proposed primary, accessory, or temporary land use is not explicitly listed in the Allowed Use Table, the use is not permitted in Rochester, unless the Community Development Director determines that it is included in the definition of a listed use or is so similar to a listed use that it shall be treated as the same use. The Director shall make that determination based on a comparison of the size, scale, operating characteristics, multi-modal traffic impacts, storm drainage impacts, utility impacts, and neighborhood impacts of the proposed use with other uses listed in the Allowed Use Table. The Director's interpretation shall be made available to the public and shall be binding on future decisions of the City until the Director makes a different interpretation or this UDC is amended to treat the use differently.

D. Relation to Local, State, or Federal Laws

1. Pursuant to authority by Minnesota Statutes, Section 462.3593. Subdivision 9, the City of Rochester opts-out of the requirement of Minnesota Statutes 462.3593 that defines and regulates Temporary Family Health Care Dwellings.²⁰⁴
2. All uses required by any local, state, or federal government to have an approval, license, or permit to operate are required to have that local, state, or federal approval, license, or permit in effect at all times, and failure to do so is a violation of this UDC.²⁰⁵

²⁰¹ These provisions amend the current adaptive reuse provisions found in 62.740. See the commentary for more information.

²⁰² New. The interim uses procedure allows for uses to exist for a specific duration before another use is implemented. As drafted, it only applies to parking lots and sand or gravel excavation.

²⁰³ New. The unlisted uses and structures procedure accounts for market changes that create new uses and structures, currently not in existence. It also absorbs some of the previous mixed use development provisions. All references to the former Planning Director were changed to the Community Development Director to match the current naming convention.

²⁰⁴ Source: 62.104.

²⁰⁵ New.

Section 60.300.020 ALLOWED USES TABLE

Commentary

As the Assessment recommended, the multiple General Zoning District Standards and Site Appearance Standards tables for each of the zoning districts in the current LDM were broken apart into logical categories (e.g. uses or development standards) in order to improve the user friendliness of the UDC. The use regulations were consolidated into this Chapter. The Allowed Use Table below shows all permitted and conditional uses in Rochester, in which district(s) the use is or is not allowed, and whether there are special conditions that apply to that use in certain locations or situations.

Overview of Procedure Update

Though the development review and approval procedures will be updated in a later installment, it is important to generally describe how those procedures will be updated. The current Type I approval is now labeled as Staff approval (although the Use-Specific Standards indicate in what circumstances Staff can “bump” the use up for action by the Planning Commission). The current Type II approval is now labeled as Planning Commission approval (but the Use-Specific Standards again indicate in what circumstances the Planning Commission can “bump” the use up for action by City Council). The Type III approval is now labeled as City Council approval, but the Phase I, Phase II, and Phase III system will be simplified to require at most one appearance before City Council. Where the current zone district tables indicate that the approval procedure for a specific use is “VAR” (for variable), that equates to either a Type I or Type II procedure – depending on size, location, or other factors. The VAR procedures were divided into either a Staff or Planning Commission approval depending on what the current Use-Specific Standards required. In most cases, these uses are now allowed with Staff approval provided they comply with Use-Specific Standards.

Consolidated Uses

Many of the uses listed in the current LDM were consolidated based on similarities of character or intensity. For example, the current Accessory Apartment and Rear Dwelling uses were consolidated into Accessory Dwelling Unit. Those changes, along with any others, are documented in the footnotes of each individual use (additional information about how some of the uses changed can be found in the Use-Specific Standards and definitions).

Broad Uses Broken Out into Multiple Uses

Some of the broadly defined uses in the current LDM were broken out into multiple uses to improve user-friendliness. We took this approach when the current broad categories included a disparate group of land uses, often with separate conditions for each included use, that made it difficult to understand what the use includes, who can approve it, and under what conditions. The following uses were broken out in the following manner:

- *Area Accessory Development*. Area Accessory Development was broken out into: Auditorium and Civic Center; Cemetery; College or University; Community Center; Correctional Facility; Elementary, Middle, and High School (renamed School); Emergency Services; Recycling Transfer Facility; Recycling Transfer Center; Recycling Drop Box; Landfill; Museum, Library, and Art Gallery; Place of Worship; Public Park; Social Services; Solar Collector; Major and Minor Utility; and Commercial Wireless Telecommunication Services (renamed and modified to Wireless Telecommunication Utility).
- *Group Residential Care*. Group Residential Care was broken out into: Day Care Facility (including those providing either adult or child care) and Residential Care Facility.

- *Semi-transient Accommodations*. Semi-transient Accommodations was broken out into Fraternities and Sororities and Rooming Houses.

Use Permission Changes

Many use “permissions” (who can approve the use) were changed. Rather than overloading the table with footnotes, changes to use permissions are displayed by color-coded highlighting. If a use permission is not highlighted then that use can be approved by the same body that can approve it today. A green highlighted use permission indicates that the use is more permissive than the current LDM. For example, if an ‘S’ is highlighted **green** then that use requires a higher level of approval in the current LDM (i.e. it is either not permitted or permitted with Planning Commission or City Council approval today). Likewise, if a use (in the left column) is highlighted then the use is new. **Red** highlighting in a cell indicates that the use is listed as more restrictive than the current LDM.

When zone districts were consolidated, we generally carried forward the most permissive level of approval, but sometimes included Use-Specific Standards to address the impacts that may have led to higher levels of approvals in the LDM. For example, when consolidating the current R-1, R-Sa, and R-1x districts into the new R-1 district, any use that was allowed in one of the three districts was carried forward with the same permission, even if the use was not permitted in a different district. For example, duplexes were only permitted in R-Sa and not in R-1 or R-1x, but they are allowed in the new R-1 district. In these cases, no highlighting was used.

Manufactured Home, Manufactured Home Park, and Mobile Home

The manufactured home, manufactured home park, and mobile home regulations were edited for legal compliance and best practices. Manufactured homes are treated as a type of detached single family dwelling (see the new Single Family Detached Dwelling definition). The manufactured home park regulations were substantially edited for simplicity and legal compliance. Mobile homes are now defined as manufactured homes that do not meet federal safety standards adopted in 1974 and are no longer permitted in Rochester as they do not conform to HUD regulations. Any mobile homes currently in existence will become nonconforming.

Commercial Wireless Telecommunication Service

The Commercial Wireless Telecommunications Facility use was renamed to Commercial Wireless Telecommunication Service (CWTS) and broken out into the following uses: Co-Located on Existing Structure, Freestanding, and Stealth on Existing Structure. Breaking out the use in this way allows for the permissions and standards to be tailored based on intensity. It also creates standards that are more concise and user-friendly.

Substantial Land Alteration

The Substantial Land Alteration use was removed, because it relates to activities (such as grading and clearing) that are carried out on the land in anticipation of development or redevelopment or another use of the land. While the City needs to regulate these activities, the process and standards related to Substantial Land Alteration will be carried forward as development standards or procedural requirements in later installments of the UDC.

Signs

The current LDM treats signs as a listed use with varying standards in each district, which is unusual. It is more common to regulate signs based on the type of development, with those basic allowances then tailored to specific zone districts based on the character, scale, and intensity of the district. In this draft, signs are not treated as a use, and they do not appear in the Allowed Use Table. Sign regulations will now appear in the Development Standards Chapter of the UDC.

Table 300.02-1

Allowed Uses Table

S = Staff approval; P = Planning Commission approval; C = City Council approval; V = vacant use; I = interim use; A = accessory use; T = temporary use; Blank cell = prohibited; Uses with an * = use-specific standards apply

	Residential and Agricultural						Mixed Use										Non-Residential				
New zoning districts	AG	R-1	R-2	R-2x	R-3	R-4	MX-N	MX-S	MX-C	MX-G	MX-I	MX-T			MX-D			BP	LI	SI	
Current zoning districts and subdistricts	AG	R1, R-Sa	R-2, R1x,	R-2x	R-3	R4, CDC Res	B2, B5	B-1	New	B4	MRD	TOD Corridor	TOD Node	TOD Village	CDC Fringe	CDC Medial	CDC Business	M-3	M-1	M-2	Use-Specific Standards
Residential Uses																					
Household Living																					
Dwelling, Single Family Detached ²⁰⁶	S	S	S	S																	
Dwelling, Twin-Home ²⁰⁷				S	S																
Dwelling, Attached ²⁰⁸									S						S	S	S				
Dwelling, Duplex, Same Lot			S	S	S			S	S												
Dwelling, Triplex			S	S	S			S													
Dwelling, Fourplex ²⁰⁹			S	S	S			S													
Dwelling, Multifamily					S	S		S	S			S	S	S	S	S	S				
Dwelling, Live/Work			P	S	S	S	S	S	C	S	S	S	S	S	S						
Dwelling, Cottage Development				S*	S*	S*	S*														Section 60.300.030B.1
Manufactured Home Park ²¹⁰			P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*				Section 60.300.030B.3
Group Living																					
Congregate Housing					S	S						S	S	S			S				

²⁰⁶ Dwelling was added before the majority of household living uses for consistency.

²⁰⁷ The separate use of Attached Single Family Dwelling corner lot was consolidated with this use. Renamed from 'Single-Family Attached.'

²⁰⁸ Replaced Performance Residential Development. Performance Residential Development standards were not carried forward. Renamed from 'Townhouse.'

²⁰⁹ The current LDM lists triplex and fourplex in the standards for multifamily. Those uses were broken out.

²¹⁰ Changed from Manufacturing Housing. Currently, the LDM does not list permissions for manufactured homes. These permissions were created to allow manufactured home parks in accordance with Minnesota Statue, that requires manufactured home parks to be allowed as a conditional use in any district where multifamily dwellings are permitted.

Table 300.02-1

Allowed Uses Table

S = Staff approval; P = Planning Commission approval; C = City Council approval; V = vacant use; I = interim use; A = accessory use; T = temporary use; Blank cell = prohibited; Uses with an * = use-specific standards apply

	Residential and Agricultural						Mixed Use										Non-Residential				
New zoning districts	AG	R-1	R-2	R-2x	R-3	R-4	MX-N	MX-S	MX-C	MX-G	MX-I	MX-T		MX-D			BP	LI	SI		
Current zoning districts and subdistricts	AG	R1, R-Sa	R-2, R1x,	R-2x	R-3	R4, CDC Res	B2, B5	B-1	New	B4	MRD	TOD Corridor	TOD Node	TOD Village	CDC Fringe	CDC Medial	CDC Business	M-3	M-1	M-2	Use-Specific Standards
Fraternity or Sorority House					P*	S*	S*	S*	S*	S*	P*	S*	S*	S*	S*			S*			Section 60.300.030B.2
Medical Stay Dwelling Unit		S	S	S	S	S	S	S	S	S	S	S	S	S							
Nursing Home ²¹¹		S*	P*	P*	P*	P*	P*	S*	S	S*	S*	S	S	S	S	S	S				Section 60.300.030B.4
Offender Transitional Housing		C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*		Section 60.300.030B.5
Residential Care Facility		S/P*	S/P*	S/P*	S/P*	S/P*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*				Section 60.300.030B.6
Rooming House					P*	S*	S*	S*	S*	S*	P*	S*			S*	S*		S*			Section 60.300.030B.7
Public, Institutional, and Civic Uses																					
Art Gallery, Museum, and Library	P	P	P	P	P	P	S	S	S	S	S	S	S	S	S	S					
Cemetery	P*	P*	P*	P*	P*	P*															Section 60.300.030C.1
College or University							S	P	S	P	S	P	P	P	P	P					
Community Center	P*	P*	P*	P*	P*	P*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*					Section 60.300.030C.2
Correctional Facility										C	C							C	C	C	
Day Care Facility	S/P*	S/P*	S/P*	S/P*	S/P*	S/P*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	P*	P*	P*	Section 60.300.030C.3
Emergency Service	P*	P*	P*	P*	P*	P*	P*	P*	S*	S*	S*	P*	P*	P*	P*	P*	P*	S*	S*	S*	Section 60.300.030C.4
Funeral Home					S*	S*	S	S	S	S	S								S		Section 60.300.030C.5
Medical Facility		S*	S*	S*	S*	S*	S*	S	S	S	S	S	S	S	S	S	S				Section 60.300.030C.6

²¹¹ Renamed from Nursing and Personal Care.

Table 300.02-1

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	Residential and Agricultural						Mixed Use										Non-Residential				
New zoning districts	AG	R-1	R-2	R-2x	R-3	R-4	MX-N	MX-S	MX-C	MX-G	MX-I	MX-T			MX-D			BP	LI	SI	
Current zoning districts and subdistricts	AG	R1, R-Sa	R-2, R1x,	R-2x	R-3	R4, CDC Res	B2, B5	B-1	New	B4	MRD	TOD Corridor	TOD Node	TOD Village	CDC Fringe	CDC Medial	CDC Business	M-3	M-1	M-2	Use-Specific Standards
Place of Worship	P*	P*	P*	P*	P*	P*	U*	U*	S*	U*	U*	S*	S*	S*	S*	S*	S*				Section 60.300.030C.7
Public Park ²¹²	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	P	
School ²¹³	U*	U*	U*	U*	U*	U*	U*	U*	P*	U*	U*	U*			U*						Section 60.300.030C.8
Social Services ²¹⁴	P	P*	P*	P*	P*	P*	U*	U*	S	U*	U*	U*	U*	U*	U*	U*	U*				Section 60.300.030C.9
Specialized Education ²¹⁵						S	U*	S	S	S	U*	S	S	S	S	S	S	S	S	S	
Community Garden ²¹⁶	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*				Section 60.300.030C.10
Commercial Uses																					
Agricultural and Animal Uses																					
Agriculture Production ²¹⁷	S	P*	P*	P*															S	S	Section 60.300.030D.2
Agriculture Retail	S						U*	S	S	P									S	S	
Agriculture Support ²¹⁸	S									P	P								S	S	
Veterinary and Animal Services ²¹⁹	S*						U*	U*	U*	S*		S*	S*	S*	P*	P*	P*	S*	U*	S*	Section 60.300.030D.26
Entertainment and Recreation																					
Adult Entertainment									S*	S*		S*	S*	S*	S*		S*		S*		Section 60.300.030D.1

²¹² Removed access standards.

²¹³ Renamed to match definition.

²¹⁴ Consider combining with office use.

²¹⁵ Renamed from Educational Services. Use-specific standards were removed.

²¹⁶ Renamed from 'Garden.'

²¹⁷ Traditional agriculture uses were renamed for consistency and combined with the Farm Drainage System use.

Permissions are more restrictive in some districts because the new Community Garden use was added, which better fulfills the intent of this use for residential districts.

²¹⁸ Combined with Agricultural Services and Agricultural Essential Services.

²¹⁹ Renamed from Veterinary Services and Animal Specialties.

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Current zoning districts and subdistricts	AG	R1, R-Sa	R-2, R1x,	R-2x	R-3	R4, CDC Res	B2, B5	B-1	New	B4	MRD	TOD Corridor	TOD Node	TOD Village	CDC Fringe	CDC Medial	CDC Business	M-3	M-1	M-2	Use-Specific Standards
Auditorium or Civic Center	P	P	P	P	P	P				P											
Campgrounds or RV Park										P*											Section 60.300.030D.8
Indoor Entertainment or Recreation ²²⁰																					Section 60.300.030D.11
Indoor Gun Range																					Section 60.300.030D.12
Outdoor Entertainment or Recreation ²²¹																					Section 60.300.030D.17
Food, Beverage, and Lodging																					
Bar or Tavern ²²²									P	P*		S	S	S	S*		S	P	P*		Section 60.300.030D.5
Bed and Breakfast			P*	P*	P*				S												Section 60.300.030D.6
Fast Food Restaurant								S*	S	S		S	S	S	S		S		S	S	Section 60.300.030D.9
Hotel or Motel ²²³								S	S			S	S	S	S	S					
Neighborhood Food and Service								S*	S	S		S	S	S							Section 60.300.030D.15
Standard Restaurant								S*	S*	S*		S*	S*	S*	S*	P*	S*		S*	S*	Section 60.300.030D.25
Office, Business, and Professional Services																					
Art Studio and Workshop					V	V	S	S	S	S	S	S	S	S	S	S					

²²⁰ Combines current Indoor Athletic Facility, Fitness Center, and Indoor Recreation, which are similar and overlap. Indoor Recreation was not permitted in R-2x and R-3, but Fitness Centers were.

²²¹ Combined with Restricted Recreation and Outdoor Entertainment. 62.750 was simplified into this table. Drive-In Facility was broken out as its own accessory use.

²²² Renamed from Drinking and Entertainment to avoid confusion with Indoor Entertainment and Recreation use.

²²³ Renamed from Transient Accommodations.

Table 300.02-1

Allowed Uses Table

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	Residential and Agricultural						Mixed Use										Non-Residential				
New zoning districts	AG	R-1	R-2	R-2x	R-3	R-4	MX-N	MX-S	MX-C	MX-G	MX-I	MX-T			MX-D			BP	LI	SI	
Current zoning districts and subdistricts	AG	R1, R-Sa	R-2, R1x,	R-2x	R-3	R4, CDC Res	B2, B5	B-1	New	B4	MRD	TOD Corridor	TOD Node	TOD Village	CDC Fringe	CDC Medial	CDC Business	M-3	M-1	M-2	Use-Specific Standards
Business or Personal Service ²²⁴		<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	Section 60.300.030D.7
Financial Institution							<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>				
Office ²²⁵		<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	Section 60.300.030D.16
Research and Testing ²²⁶								<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	Section 60.300.030D.24
Retail Sales																					
Retail, Neighborhood				<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>				Section 60.300.030D.20
Retail, Small ²²⁷				<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>		<div></div>		Section 60.300.030D.21
Retail, Medium ²²⁸						<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>		<div></div>		<div></div>		Section 60.300.030D.22
Retail, Large										<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>		Section 60.300.030D.23
Vehicles and Transportation ²²⁹																					
Air Transportation ²³⁰										<div></div>	<div></div>								<div></div>	<div></div>	Section 60.300.030D.3
Automotive Center ²³¹							<div></div>	<div></div>	<div></div>	<div></div>					<div></div>			<div></div>	<div></div>	<div></div>	Section 60.300.030D.4

²²⁴ Combined Business and Personal Service uses, adjusted the definition to reflect that change and area accessory development consolidation.

²²⁵ Renamed from Office Uses and incorporates the current Membership Organization use. Previously, offices were allowed in all residential districts. Previously, offices were allowed in all residential districts besides R-1. We modified those permissions based on discussions with staff, who clarified the current permissions were intended for home occupations.

²²⁶ This use may be combined with the Office use as a part of installment 2 if the parking standards are consistent.

²²⁷ Renamed from Convenience Retail.

²²⁸ Broke out Retail Trade into Medium and large Retail.

²²⁹ The current Transportation Services use was not carried forward, because its component activities are now included in the Parking Lot, Parking Structure, Motor Freight and Warehousing, and Motor Vehicle Sales, Leasing, or Storage uses.

²³⁰ Combines Both Public and Private Air Transportation.

²³¹ Renamed from Auto Center. Combined with Automotive Maintenance Services and Car Wash because the definition included car wash and the use permissions were the same with the exception of MX-C.

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	Residential and Agricultural						Mixed Use										Non-Residential				
New zoning districts	AG	R-1	R-2	R-2x	R-3	R-4	MX-N	MX-S	MX-C	MX-G	MX-I	MX-T			MX-D			BP	LI	SI	
Current zoning districts and subdistricts	AG	R1, R-Sa	R-2, R1x,	R-2x	R-3	R4, CDC Res	B2, B5	B-1	New	B4	MRD	TOD Corridor	TOD Node	TOD Village	CDC Fringe	CDC Medial	CDC Business	M-3	M-1	M-2	Use-Specific Standards
Automotive Repair Services, Major																					
Fueling Station ²³²																					Section 60.300.030D.10
Motor Freight and Warehousing																					Section 60.300.030D.13
Motor Vehicle Sales, Leasing, or Storage																					Section 60.300.030D.14
Parking Garage ²³³																					Section 60.300.030D.18
Parking Lot ²³⁴																					Section 60.300.030D.19
Public Transportation Dispatch Facility ²³⁵																					
Railroad Transportation																					
Industrial Uses																					
Manufacturing, Processing, and Commercial Services																					
Artisan Manufacturing																					
Heavy Commercial Services ²³⁶																					

²³² Separated out from Neighborhood Retail. Use permissions were tailored to be more restrictive than the Neighborhood Retail use.

²³³ Broke out Parking Facility into this use and Parking Lot. The use permissions were modified accordingly. The TOD districts currently allow park-and-ride parking facilities as a Type I.

²³⁴ Because surface parking lots are generally only approved as interim uses in the downtown area, this use has been recategorized as an I use in the MX-D zone district.

²³⁵ Renamed and edited based on 'Local Transit.'

²³⁶ Renamed from Non-Production Industrial.

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Current zoning districts and subdistricts	AG	R1, R-Sa	R-2, R1x,	R-2x	R-3	R4, CDC Res	B2, B5	B-1	New	B4	MRD	TOD Corridor	TOD Node	TOD Village	CDC Fringe	CDC Medial	CDC Business	M-3	M-1	M-2	Use-Specific Standards	
Heavy Industry ²³⁷																				S*	Section 60.300.030E.1	
Light Industry ²³⁸										P								S	S	S		
Recycling Transfer Facility ²³⁹								S	S	S	S							P	S	S		
Repair and Maintenance Shop							S	S*	S	S								S	S	S	Section 60.300.030E.4	
Storage and, Distribution, and Wholesaling																						
Junkyard																				C*	Section 60.300.030E.2	
Self Service Storage Facility							P*	S*	S*	S*					P*	P*	P*	S*	S*		Section 60.300.030E.6	
Wholesale Facility ²⁴⁰								S*	S*	S*								S*	S*	S*	Section 60.300.030E.7	
Resource and Extraction																						
Landfill																				C		
Quarry	C*																		C*	C*	Section 60.300.030E.3	
Sand or Gravel Excavation ²⁴¹	I*	I*	I*	I*	I*	I*	I*	I*	I*	I*	I*	I*	I*	I*	I*	I*	I*	C*	C*	C*	Section 60.300.030E.5	
Utility, Communication, and Energy Uses																						
Commercial Wireless Telecommunication Service (CWTS)																					Section 60.300.030F.1	
Co-Located on Existing Structure	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*		

²³⁷ Renamed from Heavy Industrial.

²³⁸ Renamed from Light Industrial.

²³⁹ Renamed from Recycling Collection Facility.

²⁴⁰ Renamed from Wholesaling.

²⁴¹ This use currently requires a public hearing but since the approval is generally time limited it should be categorized as an interim use.

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Current zoning districts and subdistricts	AG	R1, R-Sa	R-2, R1x,	R-2x	R-3	R4, CDC Res	B2, B5	B-1	New	B4	MRD	TOD Corridor	TOD Node	TOD Village	CDC Fringe	CDC Medial	CDC Business	M-3	M-1	M-2	Use-Specific Standards		
Freestanding	P*						P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*			
Stealth on Existing Structure	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*			
Communications Tower ²⁴²								P	P	P	P	P	P	P	S	P	P	S	S	S			
Geothermal Energy System	P	A*	A*	A*	A*	A*	A	A	A	A	A	A	A	A	A	A	A	A	P	P			
Utility, Major ²⁴³	C*						C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	Section 60.300.030F.2		
Utility, Minor	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A			
Solar Collector, Ground- or Building-Mounted ²⁴⁴	P*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	P*	P*	P*	Error! Reference source not found.		
Wind Energy Conversion System (WECS), Ground- or Building-Mounted ²⁴⁵	P*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	P*	P*	P*	Section 60.300.030F.4		
Accessory Uses and Structures ²⁴⁶																					Section 60.300.030G.1		
Accessory Dwelling Unit ²⁴⁷	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*				Section 60.300.030G.2		

²⁴² Added Tower to the name.

²⁴³ The two utility uses were added. It creates a broad category for larger utility uses with potentially significant neighborhood impacts. It consolidates the current Water and Sewer Facility and now prohibits major facilities in residential zone districts. The wireless utility is currently included in Area Accessory Development but has significantly different impacts from most other included uses and is regulated by the federal Telecommunications Act. The three sub-uses underneath Wireless Telecommunication Utility are new.

²⁴⁴ Name changed.

²⁴⁵ Consolidated with current WECS Meteorological Tower to align with the standards. The tower is a temporary installation that is generally not regulated by the long-term use-specific standards. It is usually allowed through a temporary use permit.

²⁴⁶ In the current LDM, accessory and temporary use permissions are not clearly stated for most districts (with few exceptions). The use permissions displayed here are largely based on our own analysis.

²⁴⁷ Consolidated with Rear Dwelling and Accessory Apartment. See commentary above.

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Current zoning districts and subdistricts	AG	R1, R-Sa	R-2, R1x,	R-2x	R-3	R4, CDC Res	B2, B5	B-1	New	B4	MRD	TOD Corridor	TOD Node	TOD Village	CDC Fringe	CDC Medial	CDC Business	M-3	M-1	M-2	Use-Specific Standards
Animal Husbandry ²⁴⁸	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*				Section 60.300.030G.3
Drive-in Facility ²⁴⁹								A*	A*	A*	A*	A*	A*	A*				A*	A*	A*	Section 60.300.030G.4
Electric Vehicle Charging Station	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Fuel Tank ²⁵⁰	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	Section 60.300.030G.5
Garage ²⁵¹	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*				Section 60.300.030G.6
Greenhouse	A	A*	A*	A*	A*	A*	A	A	A	A	A							A	A	A	Section 60.300.030G.7
Home Occupation	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*				Section 60.300.030G.8
Outdoor Eating Area							A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*			Section 60.300.030G.9
Urban Agriculture	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	Section 60.300.030G.10
Recreational Vehicle Parking ²⁵²	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*							A*	A*	A*	Section 60.300.030G.11
Recycling Drop Box					A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	Section 60.300.030G.12
Related Service Facility	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	Section 60.300.030G.13
Residence for Caretaker or Security Guard										A*	A*							A*	A*	A*	Section 60.300.030G.14

²⁴⁸ Previously permitted in the non-residential districts.

²⁴⁹ Moved to accessory uses.

²⁵⁰ Additional discussion on whether this use should be included is required.

²⁵¹ Garage, Front Yard Garage, and Detached Garage were consolidated.

²⁵² This use only covers accessory RV parking; parking and storage of RVs as a primary use of land is covered by Motor Vehicle Sales, Leasing and Storage.

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Current zoning districts and subdistricts	AG	R1, R-Sa	R-2, R1x,	R-2x	R-3	R4, CDC Res	B2, B5	B-1	New	B4	MRD	TOD Corridor	TOD Node	TOD Village	CDC Fringe	CDC Medial	CDC Business	M-3	M-1	M-2	Use-Specific Standards	
Residential Management or Sales Office ²⁵³		A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*					Section 60.300.030G.15	
Storage Container	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	⚡			⚡			A*	A*	A*	Section 60.300.030G.16	
Swimming Pool or Tennis Court ²⁵⁴	A	A*	A*	A*	A*	A*	A	A	A	A	A	A	A	A	A	A	A	A	A	A	Section 60.300.030G.17	
Temporary Uses																						
Carnival or Festival ²⁵⁵	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	Section 60.300.030H.1	
Contractor's Office and Yard ²⁵⁶	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	Section 60.300.030H.2	
Food Truck	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	Section 60.300.030H.3	
Garage Sale	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	Section 60.300.030H.4	
Seasonal Garden Center							T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*				Section 60.300.030H.5	
Seasonal Sales ²⁵⁷	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	Section 60.300.030H.6	

Section 60.300.030 USE-SPECIFIC STANDARDS

Commentary

Use-Specific Standards found throughout the current LDM were consolidated into this Section. Many Use-Specific Standards in the current LDM repeated information about who approves the use that are now succinctly listed in the Allowed Uses Table. Likewise, many standards were simplified and edited for clarity. All substantive changes are listed in the footnotes. As noted in the Assessment and

²⁵³ Renamed from Management and Sales Office.

²⁵⁴ Renamed from Private Swimming Pool and Tennis Court.

²⁵⁵ Renamed from Carnival or Circus.

²⁵⁶ Combined all contractor office uses.

²⁵⁷ Renamed from Seasonal Sales of Farm Produce. Combined with Christmas Tree Sales.

explained here, the district tables were pulled apart to separate content related to permitted uses from those related to generally applicable development standards or procedures.

Site Location Standards. The current LDM has 12 different site location standards. The UDC groups nine of these standards into three distinct categories: access requirements (current site location standards D, E, and F), location requirements (current site location standards A, C, and G), and spacing requirements (current site location standards H and L). Two site location standards (current I and K) remain as Use-Specific Standards for adult entertainment and day care, respectively. The remaining site location standard (current B), which has standards for the conversion of a single family dwelling into a duplex, is not carried forward. Those standards are better achieved through clear use permissions for each relevant district. Site location standards D and E were consolidated. Likewise, the A and C standards were consolidated. All of the language was modified for clarity and consistency. Current LDM footnotes to the individual district tables were not included, however, the permissions in those tables were carried forward.

Hours of Operation Standards. Standards related to hours of operation were removed from the district tables and consolidated by use. They are displayed in tables in the relevant Use-Specific Standards.

Standards Not Carried Forward. Many use-specific regulations in the current LDM were not carried forward because after modifying the use permissions, district lineup, and procedures, they were no longer necessary or applicable. The following use-specific regulations in the current LDM were not carried forward:

- 62.262 - Manufactured Housing (except as noted otherwise)
- 62.263.3 - Nursing Home and Medical Facility
- 62.263.6 - Medical Stay Dwelling Unit
- 62.264 - Business and Personal Service
- 62.2721 - Limitation on Use - Non-Residential and Accessory Uses
- 62.453 - Nursing Home in the Central Development Core
- 62.455 - Manufactured Home Park in the Central Development Core
- 63.251 - Purpose of Site Location Standards
- 63.252 (B) - Site Location Standard B

A. Applicability²⁵⁸

The Use-Specific Standards listed in this Section apply to those uses listed on the same line of the Allowed Uses Table, regardless of whether the uses are shown as Staff, Planning Commission, or City Council approvals, and regardless of whether they are Primary, Vacant, Accessory, or Temporary uses.

B. Residential Uses

1. Dwelling, Cottage²⁵⁹

- a. Maximum project size is two acres.
- b. No cottage development may be located within one-quarter mile of another cottage development, measured at the closest points on the property boundaries.

²⁵⁸ New.

²⁵⁹ New.

- c. The maximum density shall be no more than 16,000 square feet of gross floor area in cottage units per acre of project site area.
- d. A shared private common space containing at least 10 percent of the project area shall be provided.
- e. Individual cottage lots or portions of the project may not be subdivided for sale.
- f. Zone district lot and setback requirements shall apply to the project site as a whole, but not to individual co-housing dwelling sites.
- g. Each project site shall maintain a vegetated buffer, meeting the standards in **[insert x-ref in later installment]** as applicable to multifamily dwellings, along each side and rear lot line, and no portion of any primary or accessory structure may be located in that buffer area.
- h. The applicant shall submit a Site Plan identifying individual cottage development sites, streets, parking areas, stormwater management facilities, common areas and facilities, and any other features required to be identified by this UDC.

2. Fraternity or Sorority House²⁶⁰

Developments shall meet the standards applicable to permitted multifamily residential development, based on the computation that three rooming or sleeping units equal one dwelling unit.

3. Manufactured Home Park²⁶¹

a. Compliance with Other City Regulations²⁶²

Compliance with the Rochester Code of Ordinances Section 5-18 is required.

b. General Requirements

- 1) Owner/applicants must comply with the licensing requirements for manufactured home parks under Chapter 4630 of the Rules of the Department of Health in the Minnesota Statutes.
- 2) Each manufactured home sited on a lot in a manufactured home park shall conform to all Minnesota Statutes including but not limited to Chapter 327 and shall bear an installation seal as defined in MN Statutes 327.31, Subdivision 12.

c. Dimensional Standards

The following table states the applicable dimensional standards for manufactured home parks in all districts.

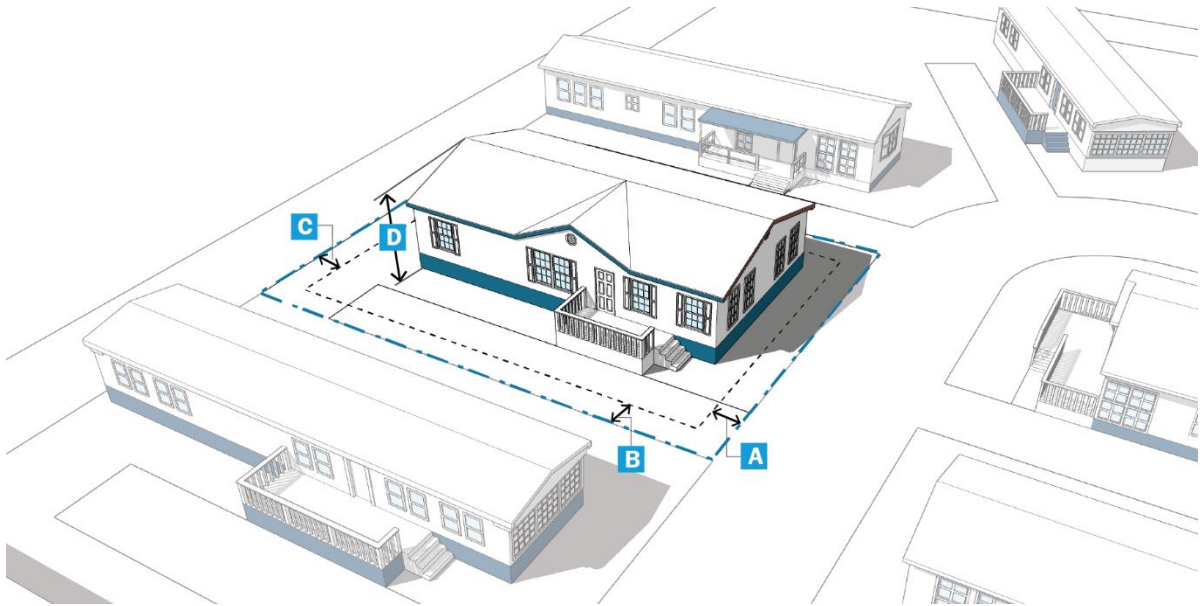
Lot Dimensions (Minimum)	
Lot Area	2,000 sq. ft. / manufactured home space
Lot Width	250 ft. / manufactured home space
Usable Open Space	200 sq. ft. / manufactured home space
Building/Structure Setbacks (Minimum in feet)	

²⁶⁰ Source: 62.623.4. Removed standards for phased out districts.

²⁶¹ Source: 62.262. These standards were heavily edited to comply with HUD standards and national best practices. They were simplified from about 10 pages of detailed regulations.

²⁶² New.

A	Front	15
B	Side (interior)	5
	Side (street facing)	10
C	Rear	10
Building/Structure Height (Maximum in feet)		
D	Primary Structure	26



d. Development Standards

- 1) Manufactured homes that are not installed on a permanent foundation shall be skirted with materials similar in color, texture, and appearance to the siding of the manufactured home.
- 2) Anchorages and tie-downs constructed to comply with Articles 14-1 and 14-3 of ROA 1994 (Uniform Administrative Code and Uniform Housing Code) shall be provided on each manufactured home space or lot to prevent overturning or uplift of the manufactured home.
- 3) Carports, patios, decks, and accessory buildings may be located in side and rear setback areas of individual manufactured home sites. Such accessory buildings may not be located in any setbacks, usable open space, or landscape buffers required for the manufactured home community.
- 4) Storage sheds, accessory buildings, and carports shall be constructed of weather-resistant materials.
- 5) All yard areas and other open spaces not otherwise paved or occupied by structures shall be landscaped and maintained.
- 6) In cases where the owner of a manufactured home community intends to change the use resulting in expiration or termination of resident occupancy, the owner

shall mail each resident written notice of his intent at least 18 months prior to the change of use.

4. Nursing Home²⁶³

In the R-1, R-2, R-2x, R-3, and R-4 Districts, Nursing Home uses shall not have vehicle access points from or channel a majority of the traffic generated by the use onto a Local residential street.²⁶⁴

5. Offender Transitional Housing²⁶⁵

a. Offender Transitional Housing in Residential Districts²⁶⁶

Offender Transitional Housing may be established in a residential district if separated from other Offender Transitional Housing as shown in the table:

District	Separation Required
R-1	1,000 feet or greater
R-2 and R-2x	600 feet or greater
R-3	400 feet or greater
R-4	No minimum separation

b. Offender Transitional Housing in Non-Residential Districts²⁶⁷

- 1) There shall be no required minimum separation distance between Offender Transitional Housing uses in non-residential districts.
- 2) In non-residential districts, proposed Offender Transitional Housing that is within 500 feet of a residential district may not cause the sum of the population capacity (beds or lodging units) of Offender Transitional Housing to exceed 10 percent of the sum of dwelling units and lodging units in parcels within a radius of 500 feet of a proposed Offender Transitional Housing use, except that where the sum of dwelling and lodging units within 500 feet is fewer than 100, the population capacity of Offender Transitional Housing units shall not exceed 10 persons.

c. Offender Transitional Housing for Sex Offenders²⁶⁸

Any Offender Transitional Housing providing or intending to provide housing to a designated sex offender as defined by state law or administrative rule must meet the separation requirements provided in this Section. Except where otherwise specified, the separation distances shall be measured from the property lines of both the offender housing and the facility from which it shall be separated.

²⁶³ Source: 63.252.

²⁶⁴ These access standards were simplified. See the footnote under Access Requirements in the MX-N district for more details.

²⁶⁵ Source: 62.940. Edited for clarity and simplicity. Standards related to single family dwellings were not carried forward. Purpose statement was deleted as unnecessary.

²⁶⁶ Source: 62.941. Standards were consolidated.

²⁶⁷ Source: 62.942. Removed a string of uses that triggers cascading processes for offender transitional housing.

²⁶⁸ Source: 62.943.

- 1) Separation by a distance of not less than 1,000 feet is required from the following facilities:
 - (a) Outdoor youth facilities in existence or included in approved general development plans;
 - (b) Public active recreation parks under ten acres in size in existence or planned;
 - (c) The playground area of any existing or planned public active recreation park over ten acres in size that is equipped with one or more playgrounds;
 - (d) A licensed child day care facility except for a family day care facility;
 - (e) Existing public or private nursery schools, elementary schools, and secondary schools; and
 - (f) Quarry Hill Park in its entirety.
- 2) Separation by a distance of not less than 500 feet is required from a day care or a residential care facility licensed to operate as of the date of conditional use permit application for the Offender Transitional Housing use.

6. Residential Care Facility

a. Licensing and Approval²⁶⁹

- 1) Residential Care Facility shall be licensed under the State of Minnesota Public Welfare Licensing Act and proof of such licensing shall be required prior to zoning certificate approval.
- 2) In all districts, a Residential Care Facility serving six or fewer dependents is a permitted use requiring Staff approval subject to meeting the requirements for Single Family Detached Dwellings. Where single family dwellings are not permitted, the applicable requirements shall be those of the R-2 District.
- 3) Residential Care Facility serving between 7 and 16 dependents is a permitted multifamily use by Staff approval in the R-3 and R-4 Districts, subject to the same requirements as Multifamily Dwellings. In the R-1 and R-2 Districts, such development shall be a conditional use subject to Planning Commission approval.
- 4) Residential Care Facilities serving more than 16 dependents in residential districts require Planning Commission approval.

b. Spacing Requirements²⁷⁰

No two Residential Care Facilities that require Planning Commission approval may locate within one-quarter mile of each other. The Planning Commission may waive this requirement if the two uses are separated by a physical barrier such as an arterial street, nonresidential zoning, or topographical features that could mitigate the need for separating the uses. In such instances the request for a zoning certificate shall be processed with Planning Commission approval.

²⁶⁹ Source: 62.623.2. This Section was broken up into two Sections in accordance with the Allowed Uses Table: day care facility and residential care facility. It was edited for clarity. Revised from Type III/City Council approval; it is unusual to have elected bodies reviewing this use regardless of scale.

²⁷⁰ Source: 63.252.

7. Rooming House²⁷¹

Developments shall meet the standards applicable to permitted Multifamily Dwellings, based on the computation that three rooming or sleeping units equal one dwelling unit.

C. Public, Institutional, and Civic Uses²⁷²

1. Cemetery²⁷³

Uses shall not have vehicle access points from or channel a majority of the traffic generated by the use onto a Local residential street.

2. Community Center²⁷⁴

Uses shall not have vehicle access points from or channel a majority of the traffic generated by the use onto a Local residential street.

3. Day Care Facility

a. Licensing and Approval

- 1) Day Care Facilities shall be licensed under the State of Minnesota Public Welfare Licensing Act and proof of such licensing shall be required prior to zoning certificate approval.
- 2) In all residential districts, a day care facility serving 14 or fewer dependents is permitted with Staff approval subject to meeting the requirements for Single Family Detached Dwellings. Where single family dwellings are not permitted, the applicable requirements shall be those of the R-2 district.²⁷⁵
- 3) A Day Care Facility serving between 15 and 20 dependents is permitted with Staff approval in the R-3 and R-4 districts, subject to the same requirements as Multifamily Dwellings. In the R-1 and R-2 Districts, such development must be approved by the Planning Commission.
- 4) Day care facilities serving more than 20 dependents require Planning Commission approval in residential districts.²⁷⁶

b. Locational Requirements²⁷⁷

The portions of the lot or parcel on which the day care center is situated must be located 300 feet or more from any Heavy Industry use. The day care center may be an internal part of, attached to, or free standing from the structure housing the primary use on the lot or parcel.

4. Emergency Service²⁷⁸

The site must provide direct access to a collector, arterial, or expressway.

²⁷¹ Source: 62.623.4. Removed standards for phased out districts.

²⁷² Access requirements for College or University facilities in the current B-4 (now MX-G) district are unnecessary and were not carried forward.

²⁷³ Source: 62.936. These access standards were simplified. See more details under the MX-N access requirements.

²⁷⁴ New requirement.

²⁷⁵ Revised to clarify that these conditions apply to residential districts, but not to mixed-use districts.

²⁷⁶ Revised from Type III/City Council approval; it is unusual to have elected bodies reviewing this use regardless of scale.

²⁷⁷ Source: 63.252. Removed a spacing requirement for uses that require Planning Commission approval.

²⁷⁸ Source: 62.936. Access requirements were removed.

5. Funeral Home

a. Location Requirements in the R-3 District²⁷⁹

The use must be located at the intersection of a collector street and a higher order street.

b. Location Requirements in the R-4 District²⁸⁰

The site must provide direct access to a collector, arterial, or expressway.

c. Hours of Operation Restrictions²⁸¹

Funeral Homes may only operate during the times specified in the table below. If a district is not listed, then no hours of operation restrictions apply.

District	Permissible Hour of Operation
R-3	7AM - 11PM

6. Medical Facility

a. Access Requirements in the R-1, R-2, R-2x, R-3, and R-4 Districts²⁸²

Uses shall not have vehicle access points from or channel a majority of the traffic generated by the use onto a Local residential street.

b. Location Requirements in the MX-N District²⁸³

The site must provide direct access to a collector, arterial, or expressway.

7. Place of Worship²⁸⁴

Uses shall not have vehicle access points from or channel a majority of the traffic generated by the use onto a Local residential street.

8. School²⁸⁵

Schools that provide educational services to Kindergarten through 5th Grade can be located on any street. All other Schools shall not have vehicle access points from or channel a majority of the traffic generated by the use onto a Local residential street.

9. Social Services²⁸⁶

In residential districts, the use must be located at the intersection of a collector street and a higher order street.

²⁷⁹ Source: 63.252. This requirement originally applied to R-1 and R-2 where this use is not permitted.

²⁸⁰ Source: 63.252.

²⁸¹ Source: 62.222; 62.230; 62.242. This requirement originally applied to R-1 and R-2 where this use is not permitted.

²⁸² Source: 63.252. These standards were simplified. See the MX-N district for more details.

²⁸³ Source: 63.252.

²⁸⁴ Source: 62.936. These standards were simplified. See the MX-N district for more details.

²⁸⁵ Source: 62.936. Location requirements based on the type of school (e.g. elementary vs. middle school) were not carried forward, however, the access exception for K-5 schools was added. Access requirements were simplified.

²⁸⁶ Source: 62.936.

10. Community Garden

a. Structures

- 1) Greenhouses and hoop houses are limited to a maximum height of 15 feet, shall be located at least 10 feet from any lot line, and may not cover more than 25 percent of the property.
- 2) Cold frames are limited to a maximum height of 12 feet and shall be located at least 10 feet from any abutting lot with an occupied residential use.

b. Operational Standards

- 1) Retail sales shall be prohibited on the Community Garden site, except for the sale of produce grown on that site.
- 2) The site drainage and maintenance shall prevent water and fertilizer from draining onto adjacent property that is not part of the contiguous land in the urban agricultural use.
- 3) Compost piles shall comply with the Rochester Code of Ordinances Section 8-3-9. Refuse and compost area shall be enclosed at ground level to be rodent-resistant.
- 4) No outdoor work activity that involves power equipment or generators may occur between sunset and sunrise.

c. Soil Quality

Food products grown in soil native to the site may be sold if the applicant can provide documentation to the Community Development Department that the following standards are satisfied:

- 1) A composite sample of the native soil, consisting of no less than five individual samples, has been tested for lead content and the lead content in the soil is determined to be at or below the residential screening levels for soil exposure, direct-contact for lead established by the Minnesota Pollution Control Agency; and either:
 - (a) Proof through maps, deeds, prior permits, or a combination of those sources that the site has only been used for residential or agricultural activities in the past; or
 - (b) A composite sample of the native soil, consisting of no less than five individual samples, has been tested for metal content using the US EPA 3050B, 3051, or a comparable method and that the metals arsenic, cadmium, mercury, molybdenum, nickel, selenium, and zinc are determined to be at or below the residential screening levels for soil exposure, direct-contact established by the Minnesota Pollution Control Agency.
- 2) If metal content in soil exceeds established thresholds, food products may only be grown in raised beds filled with clean topsoil.
- 3) As an alternative to meeting the above standards, food products may be grown in clean soil brought to the site without completing a soil test of the soil native to the site.

D. Commercial Uses

1. Adult Entertainment²⁸⁷

- a. Compliance with the Rochester Code of Ordinances Chapter 5-11 is required.
- b. The use must be located at the intersection of a collector street and a higher order street.
- c. All adult entertainment uses shall be located not less than 750 feet from any residential district boundary, church, school, or youth facility.
- d. No adult entertainment establishment shall locate within 750 feet of another adult entertainment use.
- e. For the purposes of this use the distance shall be a horizontal measurement from the nearest district boundary or lot line of a church, school, youth facility, or another adult entertainment use to the nearest point on the lot line of the lot where the adult entertainment use is proposed.²⁸⁸

2. Agriculture Production²⁸⁹

In all districts except the AG district:²⁹⁰

- a. Agriculture production in existence upon the [effective date of original provisions] shall be considered a permitted use and allowed to continue in operation including the raising of poultry and livestock and also existing animal feedlots, provided that the feedlot is otherwise in compliance with any Minnesota Pollution Control Agency requirements. A new animal feedlot may not be created after [effective date of original provisions].
- b. The animal density shall not be greater than one animal unit per one acre of pasture; and any structure used for the housing of livestock or poultry shall be located a minimum of 50 feet from any property line.
- c. Changes to the operation that have the effect of expanding or intensifying the operation shall require City Council approval if, in the opinion of the Community Development Director, the farm is within 400 feet of any residential use and the changes are detrimental to living conditions by reason of creating safety hazards or the emittance of noise, odor, or other nuisance; the operations constitute an industrial type use involving the compounding, processing and packaging of products for wholesale or retail use involving more than five outside employees.

3. Air Transportation²⁹¹**a. General Requirements in All Districts**

- 1) All required state and federal approvals including but not limited to the Federal Aviation Administration for design and operation of the facility shall be obtained and maintained in effect at all times when the facility is in operation.

²⁸⁷ Source: 63.252.

²⁸⁸ This and other rules of measurement may be consolidated into a single section when Installment 3 is drafted.

²⁸⁹ Source: 62.264. Renamed from Agricultural Operations which was not the term used in the uses.

²⁹⁰ These provisions may be consolidated with other nonconformity provisions when Installment 3 is drafted.

²⁹¹ Source: 62.383. Text regarding FAA approval has been expanded and clarified.

- 2) Air transportation facilities shall be designed so as to discourage trespassing by unauthorized personnel.
- 3) The use shall not include any retail, service, or advertisement activity that is not directly related to the operation of the facility unless the underlying land is zoned to permit such use.
- 4) Landing strips shall have a clear zone of 1,000 or more feet provided at the end of the runway that shall be controlled and maintained by the owner of the facility and kept free of uses or structures not associated with operation of the landing facility.
- 5) Landing pads shall have a planted area maintained around the perimeter of the pad by the owner of the facility to minimize noise, dust, and other hazards where necessary to protect surrounding residential properties.

b. Access Requirements in the MX-G, MX-I, and LI Districts²⁹²

Uses shall not have vehicle access points from or channel a majority of the traffic generated by the use onto a Local residential street.

4. Automotive Center²⁹³

Automotive Center uses may only operate during the times specified in the table below. If a district is not listed, then no hours of operation restrictions apply.

District	Permissible Hour of Operation
MX-N	6AM - 10PM
MX-S	6AM - 10PM

5. Bar and Tavern²⁹⁴

Uses shall not have vehicle access points from or channel a majority of the traffic generated by the use onto a Local residential street.

6. Bed and Breakfast²⁹⁵

In the R-2, R-2x, R-3, and R-4 districts, a Bed and Breakfast shall comply with the following criteria:

- a. The proprietor of a Bed and Breakfast must also be the owner and occupant of the property.
- b. In the R-2 district, Bed and Breakfast will be limited to a maximum of three double occupancy guest rooms, except in instances where the proposed bed and breakfast is on a lot 20,000 square feet or larger in area. In those instances, a maximum of five double occupancy guest rooms may be permitted.
- c. In the R-3 and R-4 districts, Bed and Breakfast will be limited to a maximum of five of double occupancy guest rooms.

²⁹² Source: 63.252. These standards were simplified. See the MX-N district for more details.

²⁹³ Source: 62.311; 62.318.

²⁹⁴ Source: 63.252. These standards were simplified. See the MX-N district for more details.

²⁹⁵ Source: 62.278. Revised to reflect replacement of CN-NR with R-2x in 2019. Provisions allowing pre-1997 bed and breakfasts to be transferred to new owners, and requiring compliance with building code, were deleted as unnecessary; those are true of all conforming and nonconforming uses.

- d. In residential districts, one small, unlighted professional sign, not exceeding two square feet of display area is permitted. Such signs shall be attached to the front of the dwelling. In the R-3 and R-4 districts, one sign not exceeding four square feet shall be permitted, except on a lot that has public road frontage along a collector or higher level street or on a lot that directly abuts a nonresidential zoning district. In those instances, one sign not exceeding 12 square feet is permitted.²⁹⁶
- e. No Bed and Breakfast facility shall be permitted on a lot that is less than 10,000 square feet in size.
- f. One off-street parking space plus one parking space for each guest room shall be provided, in the R-2x district only one-half of a parking space shall be provided for each guest room and shall meet the provisions of [insert x-ref in later installment].
- g. The dwelling proposed for a Bed and Breakfast must consist of at least 1,500 square feet of habitable floor area.
- h. Guest stays are limited to no more than 14 consecutive days.
- i. A distance separation of at least 500 feet must be maintained between bed and breakfast uses in the R-2 district. No distance separation is required in the R-2x, R-3, and R-4 districts.

7. Business or Personal Service

a. Access Requirements in the R-2x, R-3, R-4, and MX-N Districts²⁹⁷

Uses shall not have vehicle access points from or channel a majority of the traffic generated by the use onto a Local residential street.

b. Hours of Operation Restrictions²⁹⁸

Business and Personal Service uses may only operate during the times specified in the table below. If a district is not listed, then no hours of operation restrictions apply.

District	Permissible Hour of Operation
R-2x	7AM - 9PM
R-3 ²⁹⁹	7AM - 9PM
R-4 ³⁰⁰	7AM - 10PM
MX-N	6AM - 10PM
MX-S	6AM - 10PM

²⁹⁶ Source: 62.278. Replaces a cross-reference to this standard found in the Home Occupation standards. The standard remains unchanged.

²⁹⁷ Source: 63.252. Expanded to R-2 and R-2x districts for internal consistency. These standards were simplified. See the MX-N district for more details.

²⁹⁸ Source: 62.242; 62.251; 62.311; 62.312; 62.331. Combined the Business Service and Personal Service use-specific regulations. Hours of operation requirements were not carried forward for MX-G and MX-I.

²⁹⁹ Not a current requirement for business service uses.

³⁰⁰ Not a current requirement for business service uses.

8. Campground or RV Park³⁰¹

- a. The density of proposed developments shall not exceed 20 sites per acre.
- b. Spaces for trailers shall be at least 25 feet wide, and a 30 foot separation between any designated site and a residential zoning district boundary shall be maintained.
- c. Recreational space equal to 10 percent of the site area shall be provided, with no single area smaller than 400 square feet in size.

9. Fast Food Restaurant³⁰²**a. Location Requirements in the R-4 and MX-N Districts³⁰³**

The use must be located at the intersection of a collector street and a higher order street.

b. Hours of Operation Restrictions³⁰⁴

Fast Food Restaurant uses may only operate during the times specified in the table below. If a district is not listed, then no hours of operation restrictions apply.

District	Permissible Hour of Operation
R-4	6AM - 10PM
MX-N	6AM - 11PM
MX-S	6AM - 11PM

10. Fueling Station

- a. Site area improvements devoted to the dispensing of fuels are permitted to encroach within any required yard, but no closer than five feet from any property line.
- b. Fuel pumps shall be no closer than 15 feet from any right of way line or property line.

11. Indoor Entertainment or Recreation³⁰⁵**a. Location Requirements**

- 1) In the R-3, R-4, and MX-N districts, the site must provide direct access to a collector, arterial, or expressway. ³⁰⁶
- 2) In the R-4 and MX-N districts, any establishment containing over 15,000 square feet of gross floor area shall be located at the intersection of a collector or higher order street with another collector or higher order street. ³⁰⁷

³⁰¹ Source: 62.386.

³⁰² Access requirements for the current business and manufacturing (now mixed-use and non-residential) districts were not carried forward as unnecessary in light of the small size of these facilities and the relative intensity of most of these districts. Current location requirements for R-4 were extended to MX-N.

³⁰³ Source: 63.252.

³⁰⁴ Source: 62.251; 62.311; 62.318.

³⁰⁵ Combines LDM standards for current Indoor Athletic Facility, Fitness Centers, and Indoor Recreation uses. Very detailed standards for extension of hours of operation of Fitness Centers in the current B-1 (now MX-S) district were deleted as unnecessary.

³⁰⁶ Source: 63.252. Expanded to R-2x, R-4, and MX-N districts for internal consistency.

³⁰⁷ Source: 63.252. Currently a requirement for CDC Residential, but not R-4. Current location requirement for collector and higher order streets consolidated and limited to only apply to larger facilities in the R-4 and MX-N districts.

b. Hours of Operation Restrictions³⁰⁸

Indoor Entertainment or Recreation establishments may only operate during the times specified in the table below. If a district is not listed, then no hours of operation restrictions apply.

District	Permissible Hour of Operation
R-3	6AM - 10PM
R-4	6AM - 10PM
MX-N	6AM - 10PM
MX-S	6AM - 10PM

12. Indoor Gun Range³⁰⁹

Each Indoor Gun Range shall comply with the following standards.

- a. The building and method of operation shall comply with Minn. Stat. ch. 87A, included but not limited to the noise standards in Minn. Stat. ch. 87A and MN Rules 7030.
- b. An Indoor Gun Range shall not sell or dispense an Alcoholic Beverage, nor shall it be located in a building that contains a business that sells or dispenses an Alcoholic Beverage. An Alcoholic Beverage shall not be sold, stored, or consumed on the premises of the Indoor Gun Range at any time.
- c. The design and construction of the Indoor Gun Range shall completely confine all ammunition rounds within the building and in a controlled manner.
- d. The design and construction of the Indoor Gun Range shall be performed by a professional engineer registered in the State of Minnesota.
- e. No ammunition shall be used in the Indoor Gun Range that exceeds the certified design and construction specifications of the Gun Range.
- f. Each Indoor Gun Range shall have a clear and concise safety plan.
- g. The applicant shall provide and maintain proof of liability insurance that shall require the insurer to notify the Community Development Director in writing of a cancellation of the policy, a change in the limit of the policy, and/or a change in policy ownership. The policy shall be executed and provided to the Community Development Director prior to the issuance of the certificate of occupancy and shall be available for inspection by the Community Development Director and/or their designee at all times.
- h. Signs shall be posted in the entry of the structure and within the Gun Range space specifying that minors shall be accompanied by an adult at all times. This includes firearm safety classes that must be supervised by an adult instructor.
- i. Applicant shall operate and manage the Indoor Gun Range in conformance with all federal, state, and local laws and regulations related to the use, sale, rental, and transportation of firearms.

³⁰⁸ Source: 62.251; 62.311; 62.318. Consolidated and extended to the R-4 district.

³⁰⁹ Source: 62.1200. Authority provision will appear in general UDC authority Section when Installment 3 is drafted.

- j. The most current edition of the National Rifle Association's Range Source Book: A Guide to Planning and Construction shall serve as best practices for shooting range performance standards.³¹⁰

k. Required Certificate of Occupancy Documentation

Prior to occupying the building, requesting a temporary certificate of occupancy, or a final certificate of occupancy the applicant shall provide a certified inspection from the engineer that demonstrates compliance all provisions in this section including but not limited to those related to building construction, containment design and construction, caliber of firearms for which indoor gun range is certified, noise requirements, and executed proof insurance.

l. Hours of Operation Restrictions³¹¹

Indoor Gun Range uses may only operate during the times specified in the table below. If a district is not listed, then no hours of operation restrictions apply.

District	Permissible Hour of Operation
MX-G	7AM - 10PM
LI	7AM - 10PM
SI	7AM - 10PM

13. Motor Freight and Warehousing³¹²

In the MX-G, LI, and SI districts, uses shall not have vehicle access points from or channel a majority of the traffic generated by the use onto a Local residential street.

14. Motor Vehicle Sales, Leasing or Storage³¹³

- a. Outdoor display areas for vehicles are only permitted in the BP, MX-G, and LI districts.
- b. Outdoor storage areas for vehicles that are not for sale or lease are only allowed in LI district.

15. Neighborhood Food and Service³¹⁴

a. Access Requirements in the MX-N District³¹⁵

Uses shall not have vehicle access points from or channel a majority of the traffic generated by the use onto a Local residential street.

b. Hours of Operation Restrictions³¹⁶

Neighborhood Food and Service uses may only operate during the times specified in the table below. If a district is not listed, then no hours of operation restrictions apply.

³¹⁰ Source: 60.200.

³¹¹ Source: 62.321; 62.342; 62.352.

³¹² Source: 63.252. These standards were simplified. See the MX-N district for more details.

³¹³ New.

³¹⁴ Location requirements for the current B-4 (now MX-G) district were not carried forward as unnecessary in light of the relative intensity and mixed-use character of that district.

³¹⁵ Source: 63.252. These standards were simplified. See the MX-N district for more details.

³¹⁶ Source: 62.331.

District	Permissible Hour of Operation
MX-N³¹⁷	6AM - 10PM
MX-S	6AM - 10PM

16. Office³¹⁸

a. Location Requirements in R-4 District

Offices shall be limited to:³¹⁹

- 1) The ground floor of a multi-story building; or
- 2) If located in a freestanding building, shall not exceed 2,000 square feet of gross floor area.

b. Access Requirements in the R-4 and MX-N Districts³²⁰

Uses shall not have vehicle access points from or channel a majority of the traffic generated by the use onto a Local residential street.

c. Hours of Operation Restrictions³²¹

Office uses may only operate during the times specified in the table below. If a district is not listed, then no hours of operation restrictions apply.

District	Permissible Hour of Operation
R-4	7AM - 10PM
MX-N	6AM - 10PM
MX-S	6AM - 10PM

17. Outdoor Entertainment or Recreation³²²

a. Design Requirements in All Districts

- 1) The site design for uses such as stadiums with on-site parking shall provide stacking space for inbound vehicles equal to the area needed to handle 10 percent of the number of vehicles anticipated at full capacity of the seating area (assuming four persons per vehicle), unless the road authority has agreed that use of streets in the area for stacking is suitable.³²³
- 2) Sound amplification systems shall be designed so that the noise level at the property line does not exceed the maximum decibel level permitted in the zoning district applicable to the adjacent property.

³¹⁷ New.

³¹⁸ Standards related to R-1, R-2, R-2x, and R-3 were removed because this use is no longer permitted in those districts. These standards will be revisited after further discussion with staff.

³¹⁹ New.

³²⁰ Source: 63.252; 62.936. These standards were simplified. See the MX-N district for more details.

³²¹ Source: 62.131; 62.222; 62.240; 62.241; 62.251; 62.311; 62.318; 62.331. Hours of Operation limits in the current B-4 (now MX-G) district were not carried forward in light of the relative intensity and mixed-use character of that district.

³²² Source: 62.383; 62.386.

³²³ Drive-In Theater was removed because it is regulated under Drive-In Facility. This standard may be revised and moved to the stacking space Subsection of the Parking Chapter when Installment 2 is drafted.

- 3) The development shall be designed so that no bulb or light source in a ground level fixture is visible from any public right-of-way or adjacent residential properties.
- 4) Incidental commercial facilities, such as refreshment stands or pro shops, are permitted subject to the condition they are operated primarily for the patrons of the facility and no outdoor advertising of business or products is maintained.
- 5) Parking areas and other areas of intense activity, such as bleachers or rides, shall be setback at least 30 feet from any other property line, and parking surfaces shall have an all-weather surface.

b. Requirements for Uses Involving Firearms

- 1) If the proposed use is an open range or gun club involving the use of firearms, all shooting stations shall be at least 1,000 feet from property lines unless designed so as to baffle noise and provide protection from accidental or stray ammunition discharge for surrounding properties.
- 2) The most current edition of the National Rifle Association's Range Source Book: A Guide to Planning and Construction shall serve as best practices for shooting range performance standards.³²⁴

c. Access Requirements in the MX-G, MX-I, LI, and SI Districts³²⁵

Uses shall not have vehicle access points from or channel a majority of the traffic generated by the use onto a Local residential street.

d. Location Requirements for Greater Nuisance Uses³²⁶

Outdoor Entertainment or Recreation uses that are of greater nuisance than conventional outdoor athletic facilities because of 1) the noise and traffic volumes they may generate; 2) the glare they produce; or 3) the potential danger they may create from flying objects or the use of weapons. Uses in this category include, but are not limited to, amusement parks, racetracks (auto, go-cart, motorcycle) or ranges (skeet, rifle, or archery). This category of uses must provide direct access to a collector, arterial, or expressway.

e. Hours of Operation Restrictions³²⁷

Outdoor Entertainment or Recreation uses may only operate during the times specified in the table below. If a district is not listed, then no hours of operation restrictions apply.

District	Permissible Hour of Operation
MX-S	6AM - 11PM
LI	6AM - 11PM
SI	6AM - 11PM

³²⁴ Source: 60.200.

³²⁵ Source: 63.252. Consolidated repetitive access standards. Access standards were modified. See MX-N for more details.

³²⁶ Source: 62.147; 63.252.

³²⁷ Source: 62.321; 62.342; 62.352.

18. Parking Garage³²⁸

- a. Façade openings that face any public right-of-way or publicly accessible open space shall be vertically and horizontally aligned and all floors fronting on such facades shall be level.
- b. Parking structures shall be designed to conceal the view of all parked cars below hood level, and to conceal internal light sources, from adjacent public rights-of-way and publicly accessible open space.
- c. The ground floor of each parking structure façade facing a public or private street shall be designed with a minimum floor to ceiling height of 13 feet, and with no driving aisle located within 20 feet of the street facing façade (except for required vehicle entryways) to allow those ground floor frontages to be used or converted to non-parking uses permitted in the zone district in the future.

19. Parking Lot³²⁹**a. Compliance with Development Standards**

In addition to the parking standards in Section 60.400.080, *Parking*, parking lots shall comply with the following requirements as applicable.

b. General Requirements for Primary Use Parking Lots

- 1) For surface parking lots in residential districts, the site shall have landscaped area ratio equal to 1/2 the amount of landscape area required for nonresidential uses in the applicable zoning district.
- 2) In the MX-S district, the only type of parking lot permitted is a community parking lot. In determining floor area, all area devoted to parking spaces and aisles shall be counted (but not driveways, stairs, elevators, or mechanical equipment). Parking lot landscaping requirements shall be applied to the average number of stalls per level, not the total number of stalls.³³⁰
- 3) In the MX-N district, the only type of parking lot permitted is a community parking lot that is approved by Planning Commission. The street frontage of a parking lot in the MX-N district shall not exceed 60 feet and shall be screened from public view by a solid wall three feet in height constructed of durable maintenance free material or a dense evergreen hedge three feet in height.

c. Spacing Requirements in the MX-N District³³¹

Parking lot uses must be located at least 1,320 feet from each other.

³²⁸ New. Additional standards for the conversion of a parking garage to residential or non-residential uses requires further discussion.

³²⁹ Source: 62.265; 62.385. Revised for clarity. Carried forward the use-specific standard for the current Parking Facility. These standards may be consolidated with other parking lot provisions when the Parking Section is drafted in Installment 2.

³³⁰ Subsections 2 and 3 may be simplified or removed as a part of Installment 2.

³³¹ Source: 63.252.

d. Standards for the MX-T District³³²**Surface Parking**

- (a) No primary use surface parking lot unrelated to a park and ride location designated by the City shall be located within the MX-T district.
- (b) Primary use surface parking lots in park and ride locations designated by the City, and required or permitted accessory parking lots shall comply with the following standards:
 - (i) No portion of the parking lot shall be located within 20 feet of any lot line facing a public or private street (not including alleys), or closer to any public or private street (not including alleys) than the façade of a primary structure, whichever requires the greater distance from the front lot line.
 - (ii) The area between each edge of the parking lot facing a public or private street and that street shall be occupied by a pedestrian gathering space with seating, a bicycle parking area, or a landscaped buffer at least six feet in width.
 - (iii) Surface parking lots with more than 100 parking spaces shall be organized into smaller modules that contain 50 or fewer spaces each and that are visually separated from other parking modules by buildings or landscaped areas.
 - (iv) Surface parking lots and structures containing more than 50 parking spaces shall provide clearly identified pedestrian routes between parking areas and the primary pedestrian entrance(s) to the building(s) served by the parking areas. The pedestrian routes shall be designed and located to minimize the pedestrian routes interface with traffic circulation routes, and to provide pedestrian walkways with direct pedestrian and ADA access to the primary building entrance(s).

Parking Garage

No primary use parking garage unrelated to a park and ride location shall be located within the MX-T district, except in the MX-T Village subdistrict. In park and ride locations designated by the City:

- (c) The street-facing façade of the parking garage shall have a minimum floor-to-ceiling height of 13 feet for a depth of at least 30 feet from the street to allow for conversion to a non-parking use in the future.
- (d) The façade of a parking structure facing a street shall comply with the design standards in in *Section 60.400.080, Parking*.

³³² These standards were moved from the district standards and may be consolidated in Installment 2.

20. Retail, Neighborhood³³³**a. Access Requirements in the MX-N District³³⁴**

Uses shall not have vehicle access points from or channel a majority of the traffic generated by the use onto a Local residential street.

b. Hours of Operation Restrictions³³⁵

Neighborhood Retail uses may only operate during the times specified in the table below. If a district is not listed, then no hours of operation restrictions apply.

District	Permissible Hour of Operation
MX-N³³⁶	6AM - 10PM
MX-S	6AM - 10PM

21. Retail, Small**a. Access and Location Requirements³³⁷****Requirements in the R-2x and R-3 District**

- (a) Uses shall not have vehicle access points from or channel a majority of the traffic generated by the use onto a Local residential street
- (b) The site must provide direct access to a collector, arterial, or expressway.

Requirements in the R-4 District

The use must be located at the intersection of a collector street and a higher order street.

b. Hours of Operation Restrictions³³⁸

Small Retail uses may only operate during the times specified in the table below. If a district is not listed, then no hours of operation restrictions apply.

District	Permissible Hour of Operation
R-2x	6AM - 7PM
R-3	6AM - 7PM
R-4	6AM - 10PM
MX-N	6AM - 11PM

³³³ The separation requirements are new. Location requirements for the current B-4 (now MX-G) district were not carried forward as unnecessary in light of the relative intensity and mixed-use character of that district.

³³⁴ Source: 62.252. These access standards were simplified. See the footnote under Access Requirements in the MX-N district for more details.

³³⁵ Source: 62.331.

³³⁶ This requirement was added for MX-N.

³³⁷ Source: 62.264; 63.252. Removed a requirement that allowed Planning Commission to approve the use rather than City Council if the use is on a large lot. Access and location requirements for current business (now mixed-use) districts were not carried forward as unnecessary for these small uses. Access requirements were simplified. The requirement was added for R-2x.

³³⁸ Source: 62.242; 62.251; 63.211; 62.318. MX-S hour of operation standards were not carried forward.

22. Retail, Medium

a. Hours of Operation Restrictions³³⁹

Retail Trade uses may only operate during the times specified in the table below. If a district is not listed, then no hours of operation restrictions apply.

District	Permissible Hour of Operation
MX-S	6AM - 10PM
MX-C	6AM - 10PM

23. Retail, Large

a. Building Entrances³⁴⁰

Large retail buildings shall have clearly defined, highly visible customer entrances featuring no less than three of the following elements:

- 1) Canopies or porticos;
- 2) Overhangs;
- 3) Recesses/projections;
- 4) Arcades;
- 5) Raised corniced parapets over the door;
- 6) Peaked roof forms;
- 7) Arches;
- 8) Outdoor patios;
- 9) Display windows;
- 10) Architectural detail such as tile work and moldings integrated into the building structure and design; or
- 11) Integral planters that incorporate landscaped areas and places for sitting.

b. Building Articulation³⁴¹

- 1) Large retail buildings shall incorporate two or more of the following design elements on each facade visible from a street:
 - (a) Changes in wall plane, such as projections or recesses, having a wall offset of at least one foot depth, and located a minimum of every 40 feet. Each required offset shall have a minimum width of ten feet;
 - (b) Distinct changes in texture and color of wall surfaces;
 - (c) Variations in roof form and parapet heights;
 - (d) Vertical accents or focal points.

³³⁹ Source: 62.311; 62.318. Slightly more restrictive standards for garden centers were not carried forward.

³⁴⁰ New.

³⁴¹ New.

- 2) Side walls exceeding 30 feet length shall have facade articulating elements such as columns and/or changes in plane, texture, or masonry pattern.

24. Research and Testing³⁴²

In the Medical Subarea of the MX-D district, Research and Testing uses shall be related to the medical community/industry either by providing support services to existing institutions within the subdistrict or by providing research in the field of medicine on an independent basis.

25. Standard Restaurant

a. Compliance with Other City Regulations³⁴³

Compliance with the requirements in the Rochester Code of Ordinances Section 3-2-3 for dogs at a Standard Restaurant is required.

b. Location Requirements in the R-4 District³⁴⁴

The use must be located at the intersection of a collector street and a higher order street.

c. Hours of Operation Restrictions³⁴⁵

Standard Restaurant uses may only operate during the times specified in the table below. If a district is not listed, then no hours of operation restrictions apply.

District	Permissible Hour of Operation
R-4	6AM - 10PM
MX-N	6AM - 11PM
MX-S	6AM - 11PM

26. Veterinary and Animal Services³⁴⁶

- a. In the MX-N and MX-S districts animals shall be kept in a completely enclosed building at all times.
- b. In other districts, outdoor exercise runs are permitted provided they are enclosed on four sides by a sight obscuring fence or wall at least six feet in height, and that animals are kept indoors from 9 p.m. until 7 a.m.

E. Industrial Uses³⁴⁷

1. Heavy Industry³⁴⁸

Uses shall not have vehicle access points from or channel a majority of the traffic generated by the use onto a Local residential street.

³⁴² Source: 62.454.

³⁴³ New.

³⁴⁴ Source: 63.252.

³⁴⁵ Source: 62.251; 62.311; 62.318.

³⁴⁶ Source: 62.383. Title renamed from 'Boarding of Animals' to match the use name. Enclosure requirement extended to MX-N district.

³⁴⁷ Use-specific standards for Light Industry in the CDC were not carried forward, as the use is not permitted in that district.

³⁴⁸ These access standards were simplified. See the footnote under Access Requirements in the MX-N district for more details.

2. Junkyard

a. General Requirements³⁴⁹

- 1) The junkyard operation shall be conducted within a building or within a yard enclosed on all sides by a wall or solid fence at least eight feet in height.
- 2) Openings equipped with a gate or door not exceeding 24 feet in width, or not exceeding the minimum width needed to allow access to railroad lines or spurs serving the property, are permitted to allow vehicle access into the site.
- 3) Openings for vehicle access shall be closed when the establishment is not open for business.

b. Access Requirements³⁵⁰

- 1) Uses shall not have vehicle access points from or channel a majority of the traffic generated by the use onto a Local residential street.
- 2) Uses shall not take access to any major local or collector street where access to the site from the primary street system (arterials, expressways, and freeways) by way of the collector or major local results in traffic passing through a residential area.

c. Hours of Operation Restrictions³⁵¹

Junkyard uses may only operate during the times specified in the table below. If a district is not listed, then no hours of operation restrictions apply.

District	Permissible Hour of Operation
SI	5AM - 11PM

3. Quarry³⁵²

- a. Uses shall not have vehicle access points from or channel a majority of the traffic generated by the use onto a Local residential street.
- b. Uses shall not take access to any major local or collector street where access to the site from the primary street system (arterials, expressways, and freeways) by way of the collector or major local results in traffic passing through a residential area.

4. Repair and Maintenance Shop³⁵³

Repair and Maintenance Shops uses may only operate during the times specified in the table below. If a district is not listed, then no hours of operation restrictions apply.

³⁴⁹ Source: 62.352. Wording on access width consolidated and clarified.

³⁵⁰ Source: 63.252. These access standards were simplified. See the footnote under Access Requirements in the MX-N district for more details.

³⁵¹ Source: 62.311.

³⁵² Source: 63.252. These access standards were simplified. See the footnote under Access Requirements in the MX-N district for more details.

³⁵³ Source: 62.311; 62.318.

District	Permissible Hour of Operation
MX-N	6AM - 10PM
MX-S	6AM - 10PM

5. Sand or Gravel Excavation

a. Environmental Review Required³⁵⁴

- 1) A proposed excavation activity shall be subject to appropriate Environmental Review pursuant to [insert x-ref in later installment], and, where determined to be necessary, Environmental Review Program documents shall be prepared by the applicant.
- 2) Environmental Review Program documents may include, among other things, Environmental Assessment worksheets and Environmental Impact Statements.
- 3) The documents shall be reviewed prior to final local action by the City on any development related permit needed for the proposed excavation activity.

b. Access Requirements³⁵⁵

- 1) Uses shall not have vehicle access points from or channel a majority of the traffic generated by the use onto a Local residential street.
- 2) Uses shall not take access to any major local or collector street where access to the site from the primary street system (arterials, expressways, and freeways) by way of the collector or major local results in traffic passing through a residential area.

6. Self Service Storage Facility³⁵⁶

a. Standards in Residential Districts³⁵⁷

- 1) No storage space shall be used for any commercial activity (including for hire transfer and storage operations), repair and maintenance activity, or any industrial operations
- 2) Storage of flammable liquids or combustible, corrosive, explosive, radioactive, or other and hazardous materials is prohibited.³⁵⁸
- 3) Exterior areas for the storage of recreational vehicles are permitted.
- 4) This use shall only be approved in a residential district if:
 - (a) There are natural buffers separating the site from surrounding residential uses that will be retained as part of the site development, or

³⁵⁴ Source: 62.1110. Edited for clarity.

³⁵⁵ Source: 63.252. These access standards were simplified.

³⁵⁶ Access standards were not carried forward.

³⁵⁷ Source: 62.264.

³⁵⁸ Provision requiring that this provision be in the lease was not carried forward, since it is almost impossible to enforce, and the citation for violation would go to the property owner anyway. Wording of hazardous material prohibitions was aligned from non-residential and residential districts.

- (b) The property abuts an existing nonresidential district, and natural features of the site, such as shallow bedrock or poor subsoil conditions, make the development of residential uses on the site economically unfeasible.

b. Standards in Mixed Use and Nonresidential Districts³⁵⁹

- 1) Drive aisles between structures must be a minimum of 18 feet between the nearest points of buildings.
- 2) In addition to the main access one emergency access must be provided on the site. The emergency access must consist of a gate and drive over curb.
- 3) Where access to the facility is provided by a card reader or otherwise controlled two stacking spaces must be provided between the card reader and the lot line.
- 4) A minimum setback of ten feet from the nearest point of the building to the lot line is required to allow for emergency vehicle access.
- 5) Accessory uses permitted include only outdoor vehicle storage and resident manager dwelling.
- 6) Storage of flammable liquids or combustible, corrosive, explosive, radioactive, or other and hazardous materials is prohibited.³⁶⁰
- 7) If the facility is located in the MX-G or MX-D districts all storage shall be contained within a fully enclosed structure that:³⁶¹
 - (a) Is at least a two-story structure with storage units on upper floors with access doors to storage units accessed from interior hallways; and
 - (b) Does not have any garage doors or access doors to any storage unit facing any public street, park, or open space, unless the doors are screened from all visible public streets, parks, and open spaces.

c. Hours of Operation Restrictions³⁶²

SSSF uses may only operate during the times specified in the table below. If a district is not listed, then no hours of operation restrictions apply.

District	Permissible Hour of Operation
MX-G	6AM - 11 PM where use is adjacent to a residential zoning district
BP	6AM - 11 PM where use is adjacent to a residential zoning district
LI	6AM - 11 PM where use is adjacent to a residential zoning district

³⁵⁹ Source: 62.383. Standard allowing parking next to individual units in a drive aisle was deleted as unnecessary.

³⁶⁰ Provision requiring that this provision be in the lease was not carried forward, since it is almost impossible to enforce, and the citation for violation would go to the property owner anyway.

³⁶¹ Subsection 8 is new.

³⁶² Source: 62.321; 62.342; 62.3552.

1)

7. Wholesale Facility**a. Loading Requirements³⁶³**

Sufficient off-street loading space to handle anticipated vehicles shall be provided, along with the sufficient room on-site to allow maneuvering of vehicles so as to preclude the need to use the public right-of-way for backing movements.

b. Access Requirements in the MX-S, MX-C, MX-G, LI, SI, and BP Districts³⁶⁴

Uses shall not have vehicle access points from or channel a majority of the traffic generated by the use onto a Local residential street.

c. Hours of Operation Restrictions³⁶⁵

Wholesale Facility uses may only operate during the times specified in the table below. If a district is not listed, then no hours of operation restrictions apply.

District	Permissible Hour of Operation
MX-G	6AM - 10PM

F. Utility, Communication, and Energy Uses**1. Commercial Wireless Telecommunication Service³⁶⁶**

The following regulations shall apply to all Commercial Wireless Telecommunication Services (CWTS) in any zone district, unless specified otherwise:

a. Small Wireless Facility Construction Criteria³⁶⁷

The installation or attachment of an antenna or other wireless communications equipment utilizing small cell technology to stand-alone streetlight poles shall be subject to the criteria set forth below.

General Requirement

In all cases, the existing pole shall be replaced with a new combination streetlight pole that can accommodate the equipment proposed to be attached and the street light luminaire (the “replacement pole”).

Pole Criteria

- (a) Only one installation per pole on a first come, first served basis is permitted.
 - (i) The wireless equipment is not permitted to protrude more than five feet above the streetlight luminaire itself.
 - (ii) The mounting height of the luminaire on the streetlight pole shall be no more than 35 feet.

³⁶³ Source: 62.383.

³⁶⁴ Source: 63.252. These access standards were simplified.

³⁶⁵ Source: 62.311.

³⁶⁶ Source: 62.937 (unless otherwise noted). These regulations were heavily modernized and reorganized to align with national best practices.

³⁶⁷ Source: Exhibit C of the Small Cell Agreement between the City and carrier.

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- (iii) The mast arm length of a replacement pole shall match the existing streetlight pole being replaced.
 - (iv) The color and surface treatment of the replacement pole shall match the surrounding area poles. Color criteria for poles shall be as follows:³⁶⁸
 - 1. In the MX-T and MX-D districts, 30 feet height – black finish
 - 2. All districts except the MX-T and MX-D, 30 feet height – galvanized or gray finish
 - 3. All districts except MX-T and MX-D, 20 feet height – stainless steel finish (no paint)
 - 4. Shoppes on Maine Area, 14 feet and 25 feet height – dark green
 - (v) No Company signs are permitted to be placed on a streetlight pole, including a replacement pole, except to the extent required by local, state, or federal law or regulations.
 - (vi) All pole attached wireless equipment must be a minimum 10 feet from the sidewalk elevation.
 - (vii) All ground based wireless equipment, including, but not limited to, equipment cabinets or power pedestals, shall be placed at the back of the right-of-way whenever possible.
 - (viii) All pole-mounted equipment shall match the color of the replacement pole.
 - (ix) For each individual pole type or style used to support the wireless equipment, one spare replacement pole shall be provided by Licensee to the City at the end of the project so that the pole can be replaced promptly in case of a knockdown.
 - (x) All plans shall be signed and sealed by a Professional Civil and Electrical Engineer.
 - (xi) All other details in the City of Rochester Street Light Design Standards shall apply.
 - (xii) The replacement pole and the wireless equipment attached to the pole shall not increase the diameter of the existing pole that is replaced by more than 60 percent, not to exceed eight inches total, or increase the height of the existing pole by more than ten percent, not to exceed four feet.
 - (xiii) Antennas shall be limited to snug-mount, canister-mount, and concealed antennas and mounted no more than six inches off the pole.
 - (xiv) All cables or wires for the attached wireless equipment shall be located inside the pole except where such cables or wires attach to the ports in the antenna.

³⁶⁸ References to the Downtown Core were replaced with districts.

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- (xv) When wireless equipment is attached to a replacement pole, the primary purpose of the pole shall remain as a pole structure supporting a streetlight luminaire and related streetlight fixtures used to provide lighting to the City right-of-way.

Equipment Cabinets

- (b) Equipment cabinet locations shall comply with the height and development standards of the underlying zoning district.
- (c) Equipment cabinets with air-conditioning shall be enclosed by walls and setback a minimum of 15 feet from lots where the existing or planned primary use is a single-family dwelling.
- (d) The associated equipment will be reviewed by City for each location, and will be screened wherever the same can be screened in a commercially reasonable manner.
- (e) No more than one equipment cabinet and/or power pedestal shall be located at and serve any one pole site.

Additional Information Required for Above-Ground Utility Structures

All permit applications to place or install above ground structure greater than 24 inches must be accompanied by the following information:

- (f) Evidence or documentation that, where the above-ground structure is over 36 inches in height, given its proposed location, the structure will comply or be in compliance with applicable City of Rochester Zoning Ordinance and Land Development Manual.
- (g) City will provide documentation that identifies a potential site for replacement within neighborhood. The site will be selected on the basis of aesthetics and technical/engineering restrictions.
- (h) Evidence that the structure shall be placed on the same side of the right-of-way as refuse containers or utility poles. The Licensee shall not block trash truck access and alley access.
- (i) Verification of sight-triangle compliance.
- (j) Three photographs of the proposed structure, one at 90 degrees, the other two at 45 degrees on either side of the proposed location. Identify the location of the proposed structure, mark the location with white tape, use an orange traffic cone, etc.
- (k) Evidence or documentation of the dimension of the structure.
- (l) Evidence or documentation that the structure shall not exceed 36 inches in height in front of the front yard of a residential home.
- (m) Information as to the specifications of the structure, if available.

b. Stealth Design (Concealment) Required

- 1) Any proposed CWTS, excluding co-locations of antennas on existing unconcealed towers and public utility co-locations, shall use concealed technology.
- 2) The CWTS shall be the least visually and physically intrusive as possible and shall have the least adverse visual effect on the environment and its character, existing vegetation, and nearby residences.
- 3) In the R-1, R-2, R-2x, and R-3 districts, concealed installation on an existing building shall only be permitted on a permitted non-residential structure.³⁶⁹
- 4) A CWTS is considered concealed if the Community Development Director determines that the facility is:
 - (a) Aesthetically integrated with existing buildings, structures, and landscaping to blend in with the nature and character of the built and natural environment, considering height, color, style, massing, placement, design, and shape.
 - (b) Located on existing vertical structures, including utility poles and public utility structures to the maximum extent practicable.
 - (c) Located in areas where the existing topography, vegetation, buildings, or other structures provide the greatest amount of screening of the CWTS.
 - (d) Located so that it is not readily visible or identifiable as a CWTS.
- 5) Consistent with federal law, these concealment requirements shall not be administered so as to have the effect of prohibiting the provision of wireless telecommunications services.

c. Maximum Height

- 1) Co-locations on any existing unconcealed CWTS tower or existing structure: 75 feet.
- 2) Freestanding CWTS: 65 feet.
- 3) Stealth Facilities on Existing Structures: No taller than the existing structure, unless fully screened from view from all streets abutting the property, in which case the CWTS may exceed the existing structure height by 10 feet.

d. Location and Separation of Freestanding CWTS

- 1) A freestanding CWTS is prohibited in the following locations:
 - (a) Within 100 feet of the property line of any Residential zone district.
 - (b) Within 50 feet of an existing right of way.
 - (c) Within any setback required by the underlying zone district.

³⁶⁹ New.

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- 2) New freestanding CWTS shall be located a minimum of 1,000 feet from any other freestanding CWTS, as measured from the wall or fence of each freestanding CWTS. This requirement does not apply to a freestanding small-cell CWTS.
 - 3) No new freestanding CWTS shall be allowed unless the Community Development Director determines, upon the applicant's demonstration, that no existing tower, structure, or public utility structure can be used in lieu of new construction to accommodate the applicant's proposed CWTS. Evidence that demonstrates that co-location or public utility co-location cannot be used in lieu of new construction to reasonably accommodate the proposed CWTS shall consist of an affidavit with supporting exhibits submitted by the applicant addressing all of the following:
 - (a) That no existing tower, structure, or public utility structure within a ½ mile radius meets the minimum engineering requirements and/or lacks available space to support the proposed CWTS.
 - (b) That co-location or public utility co-location of the proposed CWTS would cause unavoidable electromagnetic interference with the antenna(s) on the existing towers, structures or public utility structures, or the antenna(s) on the existing towers, structures, or public utility structures would cause interference with the applicant's proposed CWTS.
 - (c) That there are other limiting factors that render existing towers, structures, or public utility structures within the ½ mile radius unsuitable.
 - (d) That the owners of existing towers, structures, or public utility structures within the ½ mile radius will not allow the applicant to place its CWTS on that facility, or such owners are requiring payments for such placement that substantially exceed commercially reasonable prices.
- e. **Lighting and Signage**
- 1) Only security lighting or lighting required by a state and/or federal agency is allowed, provided all of the following conditions are met:
 - (a) The location and cut-off angle of the light fixture shall be such that it does not shine directly on any public right-of-way or any lot containing a residential use.
 - (b) The lighting shall not have an off-site luminance greater than 1,000 foot lamberts at any point and shall not have an off-site luminance greater than 200 foot lamberts measured from any private property in any Residential zone district.
 - 2) Only signage required by state or federal law is allowed.
- f. **Abandonment**
- Any CWTS that is not in use for three consecutive months shall be removed by the CWTS owner within the following three months.

- 1) Upon removal, the site shall be revegetated to blend with the existing surrounding vegetation.
- 2) If there is no vegetation on a CWTS site, the site shall be returned to its preconstruction condition.
- 3) The facility owner shall notify the City when removal of the facility occurs.

g. Interference

Every CWTS shall meet the regulations of the Federal Communications Commission, or any successor of that agency, regarding physical and electromagnetic interference.

h. Health Issues

Every CWTS shall meet health and safety standards for electromagnetic field emissions as established by the Federal Communications Commission or any successor of that agency, and any other federal or state agency.

i. Co-location

- 1) Co-locations are encouraged.
- 2) Co-location on a concealed CWTS shall maintain the concealed nature of the facility. Otherwise, such co-locations are not subject to the concealment requirements in Section 60.300.030F.1.a, *Small Wireless Facility Construction Criteria*

The installation or attachment of an antenna or other wireless communications equipment utilizing small cell technology to stand-alone streetlight poles shall be subject to the criteria set forth below.

General Requirement

In all cases, the existing pole shall be replaced with a new combination streetlight pole that can accommodate the equipment proposed to be attached and the street light luminaire (the “replacement pole”).

Pole Criteria

- (a) Only one installation per pole on a first come, first served basis is permitted.
 - (i) The wireless equipment is not permitted to protrude more than five feet above the streetlight luminaire itself.
 - (ii) The mounting height of the luminaire on the streetlight pole shall be no more than 35 feet.
 - (iii) The mast arm length of a replacement pole shall match the existing streetlight pole being replaced.
 - (iv) The color and surface treatment of the replacement pole shall match the surrounding area poles. Color criteria for poles shall be as follows:
 1. In the MX-T and MX-D districts, 30 feet height – black finish
 2. All districts except the MX-T and MX-D, 30 feet height – galvanized or gray finish
 3. All districts except MX-T and MX-D, 20 feet height – stainless steel finish (no paint)

4. Shoppes on Maine Area, 14 feet and 25 feet height – dark green
- (v) No Company signs are permitted to be placed on a streetlight pole, including a replacement pole, except to the extent required by local, state, or federal law or regulations.
 - (vi) All pole attached wireless equipment must be a minimum 10 feet from the sidewalk elevation.
 - (vii) All ground based wireless equipment, including, but not limited to, equipment cabinets or power pedestals, shall be placed at the back of the right-of-way whenever possible.
 - (viii) All pole-mounted equipment shall match the color of the replacement pole.
 - (ix) For each individual pole type or style used to support the wireless equipment, one spare replacement pole shall be provided by Licensee to the City at the end of the project so that the pole can be replaced promptly in case of a knockdown.
 - (x) All plans shall be signed and sealed by a Professional Civil and Electrical Engineer.
 - (xi) All other details in the City of Rochester Street Light Design Standards shall apply.
 - (xii) The replacement pole and the wireless equipment attached to the pole shall not increase the diameter of the existing pole that is replaced by more than 60 percent, not to exceed eight inches total, or increase the height of the existing pole by more than ten percent, not to exceed four feet.
 - (xiii) Antennas shall be limited to snug-mount, canister-mount, and concealed antennas and mounted no more than six inches off the pole.
 - (xiv) All cables or wires for the attached wireless equipment shall be located inside the pole except where such cables or wires attach to the ports in the antenna.
 - (xv) When wireless equipment is attached to a replacement pole, the primary purpose of the pole shall remain as a pole structure supporting a streetlight luminaire and related streetlight fixtures used to provide lighting to the City right-of-way.

Equipment Cabinets

- (b) Equipment cabinet locations shall comply with the height and development standards of the underlying zoning district.
- (c) Equipment cabinets with air-conditioning shall be enclosed by walls and setback a minimum of 15 feet from lots where the existing or planned primary use is a single-family dwelling.

- (d) The associated equipment will be reviewed by City for each location, and will be screened wherever the same can be screened in a commercially reasonable manner.
- (e) No more than one equipment cabinet and/or power pedestal shall be located at and serve any one pole site.

Additional Information Required for Above-Ground Utility Structures

All permit applications to place or install above ground structure greater than 24 inches must be accompanied by the following information:

- (f) Evidence or documentation that, where the above-ground structure is over 36 inches in height, given its proposed location, the structure will comply or be in compliance with applicable City of Rochester Zoning Ordinance and Land Development Manual.
 - (g) City will provide documentation that identifies a potential site for replacement within neighborhood. The site will be selected on the basis of aesthetics and technical/engineering restrictions.
 - (h) Evidence that the structure shall be placed on the same side of the right-of-way as refuse containers or utility poles. The Licensee shall not block trash truck access and alley access.
 - (i) Verification of sight-triangle compliance.
 - (j) Three photographs of the proposed structure, one at 90 degrees, the other two at 45 degrees on either side of the proposed location. Identify the location of the proposed structure, mark the location with white tape, use an orange traffic cone, etc.
 - (k) Evidence or documentation of the dimension of the structure.
 - (l) Evidence or documentation that the structure shall not exceed 36 inches in height in front of the front yard of a residential home.
 - (m) Information as to the specifications of the structure, if available.
- 3) Stealth Design (Concealment) Required, but shall be done in the least visibly intrusive manner, to blend in with the existing structure and its surroundings.
 - 4) The equipment cabinet(s) shall be not more than three feet by four feet by 18 inches deep, at least 10 feet and no more than 20 feet high.
 - 5) No provision of this UDC shall be interpreted to prevent a co-location of CWTS as required by the federal Telecommunications Act and Middle Class Tax Relief and Job Creation Act (2012) (as amended and interpreted by the federal courts), including without limitation processing of applications for approval of “eligible facilities” and treatment of Telecom Facilities that do not propose “substantial changes” to existing facilities, as those terms are defined in the Act.³⁷⁰

³⁷⁰ New.

j. Landscaping and Screening³⁷¹

- 1) All freestanding CWTSS shall be surrounded by an opaque wall or fence at least six feet and not more than nine feet high.
- 2) All freestanding CWTSS shall include vegetation that is planted and maintained to screen ground equipment facilities from public view.
- 3) Freestanding small-cell CWTSS are not subject to the landscaping requirements in Subsections 1 and 2 above, but must comply with the following requirements:
 - (a) Equipment shall be screened by a wall, fence, or other method including but not limited to an equipment cabinet, or decorative feature that fully screens the equipment with opaque material.
 - (b) Equipment and screening materials shall not block pedestrian pathways and sidewalks.

2. Utility, Major³⁷²

Utility uses required in connection with a Major Utility use do not require additional approvals.

3. Solar Collector, Ground- or Building-Mounted³⁷³**a. General Standards for All Solar Collectors**

- 1) All exterior electrical lines shall be buried below the surface of the ground when possible.
- 2) All systems shall comply with all city and state building and electrical codes.
- 3) The property owner shall notify the electrical utility where the solar system is connected to the electrical utility system.
- 4) If the solar collector system ceases to perform its originally intended function for more than 12 consecutive months, the property owner shall remove the collector, mount and associated equipment and facilities by no later than 90 days after the end of the 12-month period.

b. Accessory Ground-Mounted Solar Collectors

Accessory ground-mounted solar collectors shall:

- 1) Be located in a side or rear yard only;
- 2) Be set back at least six feet from the side and rear property line;
- 3) Not be located within an easement;
- 4) Be located so as to minimize glare visible from abutting properties;
- 5) Not exceed 15 feet in height with panels oriented in a vertical position; and
- 6) Be included in determining the maximum coverage of structures on the lot.

³⁷¹ These provisions may be consolidated with other screening requirements as a part of installment 2.

³⁷² New. Access and location requirements were not carried forward.

³⁷³ Source: 62.277; 62.395. Standards were revised based on whether the structure is accessory or temporary and whether it is ground- or building-mounted.

c. Accessory Building-Mounted Solar Collectors

Accessory building-mounted solar shall:

- 1) Not extend more than 18 inches above the maximum height permitted in the zoning district in which it is located;³⁷⁴
- 2) If mounted to a portion of the roof ending at, or extending over, the front façade of the building, shall be mounted so that the edge of the device is set back at least one foot from the edge of the roof closest to the front lot line; and³⁷⁵
- 3) If mounted to the wall of a building, may extend into or over no more than 33 percent of the depth of a minimum yard or setback that is required along a side lot line but shall not extend closer than four feet to a side lot line.³⁷⁶

d. Principal Ground-Mounted Solar Collectors³⁷⁷

- 1) Principal ground-mounted solar collectors shall:
- 2) Be set back at least 25 feet from any property line abutting a residential zoning district, and at least 15 feet from any property line if adjacent to mixed-use or non-residential zoning district.
- 3) Not exceed 25 feet in height when oriented at maximum tilt;
- 4) Be located so as to minimize glare visible from an abutting property; and³⁷⁸
- 5) Be considered in determining the maximum coverage of structures on the lot.

4. Wind Energy Conversion System (WECS), Ground or Building Mounted³⁷⁹**a. Height Limitation³⁸⁰**

- 1) Ground-Mounted WECS shall not exceed the height permitted in the applicable zoning district.
- 2) Building-Mounted WECS may not exceed the height permitted in the applicable zoning district by more than five feet.

b. Setbacks

- 1) A ground-mounted WECS located on a single lot shall be set back from each property line at least 1.1 times the total height of the WECS.
- 2) A ground-mounted WECS located on a project site that contains two or more abutting properties shall be set back from each project site boundary shown in the application at least 1.1 times the total height of the WECS.³⁸¹

³⁷⁴ Consolidated multiple conflicting provisions on max height. 18-inch extension added.

³⁷⁵ Revised for clarity.

³⁷⁶ This standard may be consolidated with other encroachments into side and rear setbacks in Installment 2.

³⁷⁷ Text prohibiting encroachments over property lines was deleted as unnecessary; that is true of all equipment. Additional standards on building-mounted solar as a principal use was removed because building-mounted is always accessory.

³⁷⁸ Revised for simplicity and to align with the accessory/principal structure.

³⁷⁹ Source: 62.938. Separated out provisions related to dimensional standards and added appropriate headings. Edited the provisions for clarity and simplicity.

³⁸⁰ These provisions were edited to simplify the height requirements and to remove a complicated procedure for determining height allowances.

³⁸¹ Wording revised for clarity.

- 3) Each ground-mounted Small Utility WECS shall be set back from each on-site dwelling unit at least 1.1 times the total height of the WECS.
- 4) A WECS that is placed on a primary or accessory structure and does not exceed the maximum height in the applicable zoning district shall meet the minimum setback for the primary or accessory structure in the zoning district where it is located.
- 5) If a WECS attached to a primary or accessory structure receives approval for additional height through the [insert x-ref in later installment] process, the WECS shall be set back from each property line at least 1.1 times the total final height of the WECS.
- 6) The blades of a WECS placed on a primary building shall not extend beyond the property line in any operational position.
- 7) Substations, facility buildings, and other accessory structures that are part of the WECS shall comply with the required primary building setbacks for the zoning district in which the project is located.

c. Separation Distance

- 1) Each ground-mounted WECS with blades that spin on a horizontal axis and with a height of more than 100 feet shall not be located within 600 feet of any state wildlife management areas, other Minnesota Department of Natural Resources lands, Types 3-5 wetlands, and flood control reservoirs.
- 2) No components of a WECS shall be located within or encroach within 10 feet from any power line.

d. Number of Systems in Residential Districts

No more than one ground-mounted WECS is permissible per development site in the R-1, R-2, and R-2x districts.

G. Accessory Uses and Structures

All accessory uses shown in the Allowed Uses Table shall comply with the following standards unless an exception is provided elsewhere in this UDC.

1. General³⁸²

No accessory use or structure shall be established or constructed unless a zoning certificate has been issued that establishes compliance with all applicable provisions of this UDC.

a. Limitation on Establishment³⁸³

No accessory use or structure shall be constructed or established on any lot prior to the time of the substantial completion of construction of the primary use or structure to which it is accessory.

³⁸² Source: 62.270.

³⁸³ Source: 62.271.

b. Accessory Structures in Residential Districts³⁸⁴

The following general regulations apply to detached garages, accessory buildings, and accessory structures in all residential districts.

Location

- (a) Detached garages, accessory buildings, and structures accessory to a residential use may be located in a buildable lot area or in a side or rear yard area, but not closer than 18 inches of any side or rear lot line, and not in any area where the building or structure is prohibited by Subsection b below.

(b) Exceptions

The following are excepted from Subsection a above:

- (i) No accessory structure may be located within five feet of an alley; and
- (ii) No accessory building constructed after [original effective date of this provision] that provides street-accessed parking for vehicles or recreational vehicles shall be located closer to any side lot line than one-half of the side setback required for the primary structure on the lot.

Lot Development Standards³⁸⁵**(c) Location Requirements**

Unless otherwise permitted, garages or accessory structures that are attached to and an integral part of the primary structure or building shall be located in the buildable area.

(d) Setback Requirements³⁸⁶

Garages or accessory structures that are attached to and an integral part of the primary structure or building may encroach 20 percent into the minimum rear yard depth.

(e) Coverage Requirements

When located in the rear yard, accessory structures shall occupy no more than 35 percent of the rear yard area.

(f) Floor Area and Separation Requirements

- (i) The sum of the individual gross floor area of each primary and accessory building on a lot shall not exceed the maximum floor area ratio, if any, for the applicable zoning district, except as provided in [insert x-ref in later installment].
- (ii) A roof may not extend beyond the wall more than six inches where located within 18 inches of a side or rear lot line.
- (iii) Separation of accessory structures from primary structures shall be as required by the Building Code.

³⁸⁴ Source: 62.273. Language was modified to match the new district lineup and simplified.

³⁸⁵ Source: 62.273. Re-organized. Height requirements are now found in the dimensional tables in the Districts chapter.

³⁸⁶ Revised to clarify that b addresses encroachments into the rear yard depth, while c addresses occupancy of rear yard area.

c. Accessory Structures in Non-Residential Districts³⁸⁷

- 1) Accessory buildings and structures associated with a non-residential use shall meet all setback requirements for the primary building on the lot and shall not interfere with provision of required landscaping on the lot.
- 2) No accessory building in a nonresidential district shall exceed the height of the primary building unless provided for in this Section.
- 3) The combined lot coverage of accessory buildings or structures and the primary building or structure located on the same lot or site shall not exceed the permitted lot coverage for the district. Structures under 200 square feet in floor area are exempt from this requirement.³⁸⁸

2. Accessory Dwelling Unit³⁸⁹

a. General

- 1) There shall be no more than one accessory dwelling unit on a lot.
- 2) If the accessory dwelling unit is located in a district that only allows a single principal dwelling unit on the lot, either the principal dwelling unit or the accessory dwelling unit must be the primary permanent residence of the owner of the lot.
- 3) An accessory dwelling unit must not contain more than 600 square feet of gross floor area.
- 4) No portion of a lot on which an accessory dwelling unit is located may be subdivided from or legally described differently than, the lot containing the primary residential unit, and no portion of a structure containing an accessory dwelling unit may have ownership different from the ownership of the primary dwelling unit.
- 5) Recreational vehicles may not be used as accessory dwelling units.³⁹⁰

b. Additional Standards for Attached Accessory Dwelling Units

An attached dwelling unit created after the effective date of this amendment shall maintain the architectural design, style, appearance, and character of the principal dwelling by incorporating design elements of the principal residence such as similar façade materials, façade colors, window style/treatment, and roof design and pitch, and shall not have a primary entrance to the accessory dwelling unit located on the front façade of the primary structure.

c. Additional Standards for Detached Accessory Dwelling Units³⁹¹

- 1) For the purpose of determining the front yard, the rear line of the required rear yard for the primary building in front shall be considered the front lot line for the building in the rear.

³⁸⁷ Source: 62.273.4.; 62.390; 62.391; 62.392; 62.393; 62.395.

³⁸⁸ Exemption added.

³⁸⁹ Source: 62.278 (Accessory Dwelling Unit). Re-organized. A provision related to the number of bedrooms was removed.

³⁹⁰ New.

³⁹¹ Source: 62.278 (Rear Dwelling). A provision related to compliance with the rest of the UDC was removed. Further discussion on whether these standards are needed is required.

- 2) In addition, there must be provided for any such rear dwelling an unoccupied and unobstructed accessway to a public street of no less than 18 feet in width.

3. Animal Husbandry³⁹²

Horses, llamas, and animals that typically weigh more than 100 pounds when mature or that are typically raised for sale or profit are only permitted in the AG district.

4. Drive-In Facility³⁹³

- a. That portion of the site area used for vehicle circulation and parking shall be hard-surfaced to control dust and shall be setback at least 30 feet from any other property line.
- b. Waste receptacles shall be provided at all exits where readily disposable goods or materials are offered for sale and pick-up through the drive-through.
- c. Devices such as speakers shall be designed so that the noise level at the property line does not exceed the maximum decibel level permitted in the zoning district applicable to the adjacent property or the existing ambient noise level as measured at the property line (whichever is greater).
- d. The development shall be designed so that no ground level light sources are visible from any public right-of-way or adjacent residential properties.
- e. Incidental commercial facilities, such as refreshment stands, are permitted subject to the condition they are operated primarily for the patrons of the facility and no outdoor advertising of business or products is maintained.

f. MX-T District Requirements³⁹⁴

Drive-in facilities in the MX-T District shall not:

- 1) Be located or designed so that vehicles using the drive-in facility pass between any public or private street and any portion of any facade of the primary building facing that street; and
- 2) Be accessed directly from, or be located on a lot(s) with a curb cut onto, N. or S. Broadway, SW. 2nd St., or SE 4th St./Collegeview Rd.

5. Fuel Tank³⁹⁵

- a. An accessory fuel tank may be permitted in any zoning district for the purpose of heating on site structures.
- b. Such fuel tanks shall be located in the buildable area of the lot or the required rear yard, subject also to the fire protection regulations, and shall be screened from

³⁹² New.

³⁹³ Source: 62.283, 62.383. Some of these standards may be moved to the Parking Area regulations when installment 2 is drafted. Provision for adjustments of required stacking were not carried forward; standard adjustment/variance provisions will apply. A standard on parking requirements was not carried forward because it was both confusing and will be addressed in Installment 2.

³⁹⁴ Source: 62.383.

³⁹⁵ Source: 62.278.

adjacent properties with low hedges, evergreens, or other plant materials in association with a fence.

6. Garage³⁹⁶

a. General

- 1) Unless stated otherwise in this UDC, detached garages for residential uses shall be excluded from the floor area ratio.
- 2) Detached garages for residential uses shall be included in the calculations to determine lot coverage by buildings, structures, and paved surfaces.
- 3) The location and size of detached garages for residential uses shall not interfere with installation of all required landscaping on the lot.³⁹⁷

b. Attached Garages³⁹⁸

Garages attached to a dwelling unit may encroach into the front yard if the required minimum side yard setback and a minimum front yard setback of 20 feet for all single family detached dwellings is maintained. For other dwelling types, the front yard setback shall be 20 feet if the doors providing vehicle access face the street; and 12 feet for other walls of the garage.

7. Greenhouse³⁹⁹

In residential districts, greenhouses are limited to a maximum height of 15 feet, shall be located at least 10 feet from any lot line, and may not cover more than 25 percent of the property.

8. Home Occupation⁴⁰⁰

All Home Occupations require Staff approval and may only be approved if the following standards are met.

- a. The Home Occupation may not involve the use of an accessory building or structure on the lot, except for uses using recreational facilities such as swimming pools or tennis courts.
- b. The Home Occupation shall not occupy more than 25 percent of the livable area of the dwelling unit or 500 square feet, whichever is less.
- c. The Home Occupation shall not involve internal or external alterations or construction features not normally found in dwellings and shall not include a separate entrance.
- d. Other than a member of the family residing in the dwelling unit, only one outside employee may be engaged in the Home Occupation.

³⁹⁶ Source: 62.276. Language modified to reflect new residential lineup and to align with the consolidation of all garage structures. Provisions related to detached garages was removed.

³⁹⁷ Edited for clarity.

³⁹⁸ Edited for clarity.

³⁹⁹ New.

⁴⁰⁰ Source: 62.278; 62.2721. Standards related to home occupations that were originally in the general accessory uses were moved here and modified for clarity and consistency. Requirement for off-street parking was not carried forward, as this sometimes results in the creation of additional parking spaces that erode the residential character of the neighborhood and make it very difficult for occupants of smaller units to engage in home occupations. Repetitive prohibition on use of accessory structures was not carried forward. Revised language that created ambiguity as to the approval process and clarified that Staff approves home occupations. Removed language that contradicted that process.

- e. No Home Occupation may involve the boarding of animals or keeping of fowl or farm animals, except as otherwise provided by any provision of the Rochester Code of Ordinances.
- f. No Home Occupation may use a mechanical equipment or process that creates noise, vibration, glare, fumes, odors, or electrical interference detectable off the premises, including those that create visual or audible interference on any radio or television receiver located off the premises.
- g. No exterior storage of equipment or materials in connection with the Home Occupation and no display of products, goods, or services that is visible from outside the dwelling unit are permitted.
- h. Only articles made or originating on the premises shall be sold, unless the articles are incidental to a permitted commercial service.
- i. Traffic that may be generated shall not be of such magnitude as to have a significant detrimental effect on the capacity of streets in the area.
- j. Only one vehicle used in connection with the Home Occupation shall be stored or stopped on the premises, and such vehicle shall not be a dump truck, wrecker, or fuel oil delivery truck, or other truck with a gross vehicle weight of over 10,000 pounds.⁴⁰¹
- k. Any permit approving a Home Occupation is valid for only the person, the business, and the location named in the application, and may not be transferred to another person, business, or location.
- l. In the R-1 and R-2 districts, one small, unlighted professional sign, not exceeding two square feet of display area, and attached to the front of the dwelling, is permitted.⁴⁰²
- m. In the R-3 and R-4 districts, one sign not exceeding four square feet shall be permitted, except on a lot that has public road frontage along a collector or higher level street or on a lot that directly abuts a nonresidential zoning district, one sign not exceeding 12 square feet is permitted.
- n. Each individual home occupation sign within a multifamily residential dwelling shall be no greater than two square feet in size, and there shall be no more than a cumulative total of 12 square feet of signage permitted for the multifamily dwelling.

9. Outdoor Eating Area⁴⁰³

Outdoor eating areas located on a public right-of-way shall comply with the following standards:

- 1) No sale or service shall be permitted in any portion of a street designated for vehicular travel or circulation.⁴⁰⁴

⁴⁰¹ Final sentence prohibiting advertising on the vehicle but allowing identification of the home occupation was deleted as internally inconsistent and content-based sign regulation.

⁴⁰² Restrictions on content of the sign were deleted as content-based regulation.

⁴⁰³ Source: Rochester Code of Ordinances Section 9-8-2. Edited for clarity and consistency. The remaining provisions of 9-8-2 relating to permit requirements will be re-evaluated in Installment 3.

⁴⁰⁴ Source: Rochester Code of Ordinances Section 9-8-2-a.

- 2) Structures and equipment shall not be permanently installed in the public right-of-way.⁴⁰⁵
- 3) Sidewalks shall be swept and washed daily by the permit holder.⁴⁰⁶
- 4) Trash disposal and electricity must be provided from within the establishment.⁴⁰⁷
- 5) A minimum of five feet of sidewalk width must remain unobstructed for passage by pedestrians.⁴⁰⁸
- 6) A permit is required for all uses located on public property or rights-of-way pursuant to [insert x-ref in later installment].⁴⁰⁹

10. Urban Agriculture⁴¹⁰

a. Compliance with other City Regulations

Urban Agriculture uses must comply with the Rochester Code of Ordinances Title 3.

b. Structures

- 1) Greenhouses and hoop houses are limited to a maximum height of 15 feet, shall be located at least 10 feet from any lot line, and may not cover more than 25 percent of the property.
- 2) Cold frames are limited to a maximum height of 12 feet and shall be located at least 10 feet from any abutting lot with an occupied residential use.

c. Operational Standards

- 1) Retail sales shall be prohibited on the Urban Agriculture site, except for the sale of produce grown on that site.
- 2) The site drainage and maintenance shall prevent water and fertilizer from draining onto adjacent property that is not part of the contiguous land in the Urban Agricultural use.
- 3) Compost piles shall not exceed six feet in height. Refuse and compost area shall be enclosed at ground level to be rodent-resistant.
- 4) No outdoor work activity that involves power equipment or generators may occur between sunset and sunrise.

11. Recreational Vehicle Parking⁴¹¹

The parking and storage of recreational vehicle and recreational equipment on a lot is permitted subject to the following restrictions.

- a. In the R-1, R-2, and R-2x districts only one RV may be stored on a lot.

⁴⁰⁵ Source: Rochester Code of Ordinances Section 9-8-2-b. Edited for clarity.

⁴⁰⁶ Source: Rochester Code of Ordinances Section 9-8-2-c. Edited for clarity.

⁴⁰⁷ Source: Rochester Code of Ordinances Section 9-8-2-d. Edited for clarity.

⁴⁰⁸ Source: Rochester Code of Ordinances Section 9-8-2-e. Edited for clarity.

⁴⁰⁹ This cross-reference could either be to a section in the procedures that incorporates the current Rochester Code of Ordinances Section 9-8 or, if not incorporated, to Section 9-8.

⁴¹⁰ New.

⁴¹¹ Source: 62.278. Text stating that failure to meet standards is a misdemeanor was deleted as unnecessary.

- b. Parking and storage is permitted at all times within an enclosed building or within the rear yard.
- c. Recreational vehicles under 18 feet in length and seven feet in height, or recreational equipment under 18 feet in length, may be parked on an established driveway in a required front or side yard meeting the provisions of [insert x-ref in later installment].
- d. Recreational vehicles and equipment over 18 feet in length, or seven feet in height may be parked on an established driveway, provided they are set back a minimum of 20 feet from the back of the curb, where present, or the paved area of the street.
- e. Recreational vehicles or equipment that require licensing must have a valid current license in order to be stored outside upon a property within a residential zoning district.
- f. Recreational vehicles may not be used as permanent accessory structures within any residential zoning district or as an accessory dwelling unit.⁴¹²

12. Recycling Drop Box⁴¹³

- a. A recycling drop box may be located anywhere on a lot except in a required traffic visibility area or a required bufferyard.
- b. Each recycling drop box shall be setback from all property lines a distance equal to the height of structure.

13. Related Service Facility⁴¹⁴

- a. The gross floor area of all retail and service facilities within a Multifamily Dwelling shall not be greater than 25 percent of the gross floor area of all the dwelling units in that structure or 4,000 square feet, whichever is less.
- b. The facility shall be operated only for the residents, employees, or guests of the primary use and their guests. When provided in the R-4 District, such facilities are exempt from this requirement and may be open to the public on a fee or other basis.

14. Residence for Caretaker or Security Guard⁴¹⁵

- a. A Residence for Caretaker of Watchmen is permitted for any commercial or industrial use for the purpose of security.
- b. The residence may be either an integral part of the primary building or detached from it.

15. Residential Management or Sales Office⁴¹⁶

- a. In any multifamily or manufactured housing development, one dwelling unit may be devoted to use as an office for management of the development or as a headquarters for sales, leasing, or management of other dwelling units in the development.
- b. One freestanding sign not to exceed six square feet in size shall be permitted for identification purposes.

⁴¹² ADU restriction added.

⁴¹³ Source: 62.934.

⁴¹⁴ Source: 62.278. Specific standards on door location and access were not carried forward. Sign standards were not carried forward. Removed an exemption for the R-4 district.

⁴¹⁵ Source: 62.395. Updated to match new uses. Requirement that the unit meet R-1 setbacks was not carried forward. Quarters are often in primary buildings that meet different setbacks.

⁴¹⁶ Source: 62.278.

-
- c. Off street parking equal to that required for office uses shall be provided.

16. Storage Container⁴¹⁷

a. General

No storage container shall be located on a lot before a Site Development Plan review has been completed and a zoning certificate has been issued, unless the storage container is already shown on an approved Site Development Plan.

b. Standards in Residential Districts

All storage containers shall:

- 1) Only be permitted on site containing a Public Park, School, Place of Worship, and for a period not to exceed six months per year.⁴¹⁸
- 2) Be set back at least 50 feet from each property line abutting a residential zoning lot.
- 3) Be set back at least 25 feet from each public street.
- 4) Be set back at least 50 feet from each property line abutting a street when residential dwellings are located across the street.
- 5) Be an earth tone color and may have an identification sign with no more than two square feet of sign area.

c. Standards in Mixed Use and Non-Residential Districts

Container storage of merchandise is permitted only when incidental to the permitted use located on the same lot, and provided that the container storage area meets the following requirements. These standards do not apply to truck trailers or semi-trailers that are actively being used for the transportation of merchandise and are temporarily located adjacent to loading docks of a primary structure.

Container Storage as a Primary Use of Land

- (a) This primary use of land shall comply with all standards applicable to Heavy Commercial Services in the LI and SI districts.
- (b) A Site Development Plan review and zoning certificate is required for this use.

Container Storage as an Accessory Use of Land

Storage containers are a permitted accessory use only within the MX-G, LI, and SI districts for those use categories that permit exterior storage or display as specified by the applicable zoning district standards and site appearance standards, and [insert x-ref in later installment].

Storage Container Location⁴¹⁹

- (c) Storage containers must meet Exterior Storage Standard “S” as specified in [insert x-ref in later installment].

⁴¹⁷ Source: 62.2722; 62.396. This Section will be reviewed/edited again as part of the Development Standards installment.

⁴¹⁸ Place of Worship added to comply with federal Religious Land Use and Institutionalized Persons Act.

⁴¹⁹ Text requiring that storage containers be located immediately adjacent to the principal structure was not carried forward because it was inconsistent with other more detailed standards.

-
- (d) Storage containers may be located within the buildable area of a lot, provided that:
 - (i) They shall be set back from each public right-of-way by at least 25 feet.
 - (ii) The container storage area shall not be located on any part of a yard between the front or side street lot line and the primary structure or building.
 - (iii) They shall not be located on utility or drainage easements.

Maximum Permitted Heights

The maximum height permitted shall be nine and one-half feet above the finished grade.

Site Impact

The area of a lot designated for storage containers shall be included as a part of the floor area and all related calculations including floor area ratio and landscape area. The area on a property designated for storage containers shall not exceed the outer dimensions of the primary structure or 10 percent of the gross floor area, whichever is less. Where Large Retail use or a Heavy Commercial Services Use proposes to use storage containers, the containers shall be located within the permitted exterior storage area and must be calculated as part of the exterior storage area as regulated by the district and [insert x-ref in later installment].⁴²⁰

Site Improvements

- (e) In all districts where this use is permitted, the storage containers shall be located on a paved level surface to prevent shifting, rolling, or other movement.
- (f) In the MX-G, LI, and SI districts, the area designated for storage containers shall be required to provide a bufferyard as required for a Heavy Commercial Services use.
- (g) In the MX-G and LI districts, the storage container shall be completely enclosed by a solid wall made of the same material and the same appearance as the primary structure, and a gate that blocks the view of the storage area. The wall shall be ten feet in height. The gate shall be securable. A wall will not be required where a Large Retail or Heavy Commercial Services use proposes to use storage containers and the containers are located within the exterior storage area as regulated by the district, and by [insert x-ref in later installment].⁴²¹

Maintenance⁴²²

The storage containers must be free of graffiti, posters, bills, or advertising signs. All containers must be free of corrosion, rust, rot, holes, or leaks. The containers must be painted. Graffiti and other vandalism must be repaired within two weeks

⁴²⁰ References to home center and lumber yard replaced by proposed new use names that include those uses.

⁴²¹ References to home center and lumber yard replaced by proposed new use names that include those uses.

⁴²² These maintenance standards will be consolidated with other maintenance requirements in Installment 2.

of the incident. A company identification sign no more than 2 square feet in area shall be attached to the storage container.

General Standards

- (h) Storage containers shall not be connected to utility services.
- (i) Storage containers may not be used to store mixed municipal waste or other solid waste or hazardous, flammable, explosive, corrosive, or biologically infectious or contagious materials.
- (j) The area used to park the storage containers shall be located on a lot that allows the units to be moveable.
- (k) No object may be stacked or stored on top of a storage container.
- (l) Storage containers shall not be stacked vertically.

d. Temporary Placement⁴²³

- 1) Storage Containers may not be located at an individual property for longer than:⁴²⁴
 - (a) 14 days if the property is located in a residential zone district or on a property with a residential primary use in a mixed-use zone district;
 - (b) 90 days if the property is located in a special purpose zone district or on a property with a non-residential primary use in a mixed-use zone district; or
 - (c) The time period between the issuance of the first building permit for construction of new primary building or a major addition to an existing primary building and the issuance of the last certificate of occupancy or use for the new or expanded primary building.
- 2) Storage containers placed as temporary uses may not block fire lanes, no-parking zones or restrict emergency vehicles, delivery, or other vehicle circulation.
- 3) The placement of the container shall not block the visibility for vehicles or pedestrians entering or exiting the site.
- 4) No solid or hazardous waste or hazardous material is permitted in or around the storage containers.
- 5) No materials may be stacked or stored on top of the storage container.

17. Swimming Pool and Tennis Court⁴²⁵

No swimming pool or tennis court shall be allowed in any residential district unless it complies with the following requirements

- a. The pool or court shall not be operated as a business or private club, except when allowed as a permitted home.
- b. The pool or court shall not be located in any required front or required side yard and shall not be closer than 10 feet to any property line of the property where it is located.

⁴²³ Source: 61.115 (unless otherwise noted).

⁴²⁴ New.

⁴²⁵ Source: 62.278. Provision stating that violations of these provisions are a violation of the UDC was not carried forward since that is true of all UDC standards. Standards were consolidated and edited for brevity.

- c. Pump and filter installations for pools shall not be closer than 20 feet to any property line.
- d. For an in-ground or surface swimming pool, the pool or the property where the pool is located shall be enclosed by a fence of a type that effectively controls the entrance by children to the pool area. For an in-ground pool, a mechanically controlled cover can be used in lieu of fencing requirements.
- e. For an above ground swimming pool, the pool shall be equipped with an automatically retractable type ladder, a retractable ladder, a removable ladder or shall be fenced in as stated in this Section. The ladder must be removed or retracted when the pool is not being attended.
- f. Enclosed pools and courts shall be considered as structures for purposes of regulations limiting lot coverage.

H. Temporary Uses

The Community Development Director may approve a zoning certificate for a temporary use in the form of a revocable permit for a period not to exceed 12 months subject to conditions that will safeguard the public health, safety, and general welfare.⁴²⁶

1. Carnival or Festival⁴²⁷

- a. No structure or equipment shall be located within 100 feet of any residential property line.
- b. This use may occur on non-residential primary uses such as churches, community centers, and schools.
- c. In the Residential districts, this use is limited to events of 200 or fewer participants that are less than two days.

2. Contractor's Office and Yard

a. General Requirements⁴²⁸

- 1) Permitted in any district where it is incidental to a construction project.
- 2) The office or shed shall not contain sleeping or cooking accommodations and shall be removed upon completion of the construction project.

b. Access Requirements in the MX-S, MX-N, MX-G, and MX-I Districts⁴²⁹

Uses shall not have vehicle access points from or channel a majority of the traffic generated by the use onto a Local residential street.

c. Hours of Operation Restrictions⁴³⁰

Contractor's Office and Yard uses may only operate during the times specified in the table below. If a district is not listed, then no hours of operation restrictions apply.

District	Permissible Hour of Operation
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⁴²⁶ Source: 61.115. This content may be moved to the Temporary Use approval process when Installment 3 is drafted.

⁴²⁷ Source: 61.115. Setback reduced from 500 feet. The second two standards were added.

⁴²⁸ Source: 61.115.

⁴²⁹ Source: 63.252. These access standards were simplified.

⁴³⁰ Source: 62.311; 62.318.

	MX-N	6AM - 10PM
	MX-S	6AM - 10PM

3. Food Truck⁴³¹

Compliance with the Rochester Code of Ordinances Chapter 5-21 is required.

4. Garage Sale⁴³²

Garage sales are limited to no more than three sales per calendar year at any one property, and each sale may not exceed three consecutive calendar days.

5. Seasonal Garden Center

a. General Requirements in All Districts⁴³³

- 1) Temporary greenhouses are permitted and must be shown on the site plan.
- 2) Fertilizer, pesticides, and related gardening materials shall be displayed and stored within an enclosed structure.
- 3) Topsoil, mulch, and rocks must be stored to prevent any movement of the material from the site by air, water, erosion, or drainage.
- 4) When a seasonal garden center is a free standing business not associated with another business, then:
 - (a) Sign standard “A” shall apply;
 - (b) Banners are not permitted;
 - (c) Required parking for the primary use shall not be reduced by more than ten percent; and
 - (d) The center’s time of operation shall be limited to a period of not more than six consecutive months.⁴³⁴
- 5) The area established for the garden center shall not block drive aisles and fire lanes.
- 6) Seasonal garden centers shall comply with the setback requirements for exterior storage and structures of the underlying zoning district.

b. Access Requirements in the MX-S and MX-N Districts⁴³⁵

Uses shall not have vehicle access points from or channel a majority of the traffic generated by the use onto a Local residential street.

6. Seasonal Sales⁴³⁶

- a. Sale areas shall be set back a minimum of 20 feet from any right-of-way.

⁴³¹ New.

⁴³² Source: 62.2723.

⁴³³ Source: 62.395.

⁴³⁴ Vague time limit based on weather was replaced with six-month maximum duration.

⁴³⁵ Source: 63.252. These access standards were simplified.

⁴³⁶ Source: 61.115. Simplified standard is expanded the 45-day provision to all seasonal sales.

-
- b. Seasonal sales are only permitted for a period of 45 days or less.

Chapter 60.400 Development Standards and Incentives

This Chapter will be drafted in a later installment.

Section 60.400.010	INTRODUCTION AND SUMMARY TABLE
Section 60.400.020	DIMENSIONAL STANDARDS
Section 60.400.030	SUBDIVISION STANDARDS
Section 60.400.040	ACCESS AND CONNECTIVITY
Section 60.400.050	OPEN SPACE, STORMWATER, AND DRAINAGE
Section 60.400.060	LANDSCAPING, BUFFERING, AND FENCES
Section 60.400.070	SITE AND BUILDING DESIGN
Section 60.400.080	PARKING
Section 60.400.090	EXTERIOR STORAGE
Section 60.400.100	LIGHTING
Section 60.400.110	SUSTAINABILITY AND RESILIENCE
Section 60.400.120	AFFORDABLE HOUSING
Section 60.400.130	SIGNS
Section 60.400.140	INCENTIVES
Section 60.400.150	MAINTENANCE AND OPERATION

Chapter 60.500 Procedures and Administration

This Chapter will be drafted in a later installment.

Section 60.500.010 INTRODUCTION AND SUMMARY TABLE OF PROCEDURES

Section 60.500.020 REVIEW AND DECISION-MAKING BODIES

Section 60.500.030 COMMON PROCEDURES

Section 60.500.040 MAJOR PLANS AND POLICY PROCEDURES

Section 60.500.050 DECISIONS REQUIRING A HEARING

Section 60.500.060 DEVELOPMENT APPROVALS

Section 60.500.070 FLEXIBILITY AND RELIEF

Section 60.500.080 NONCONFORMITIES

Section 60.500.090 VIOLATIONS, ENFORCEMENT, AND PENALTIES

Chapter 60.600 Definitions

Commentary

Definitions found throughout the LDM were consolidated in this Chapter. This installment includes all definitions related to districts and uses (as well as other tangentially related definitions). Definitions were added so that all uses are defined. Many of the definitions were edited for clarity and consistency. Additional definitions will be added as they relate to the next two installments. Some of the definitions included here will be reviewed again under a future installment.

Section 60.600.010 RULES OF CONSTRUCTION

A. Purpose⁴³⁷

The provisions of this Section are intended to establish guidelines to follow in clarifying ambiguities that may arise regarding the meaning of text in the UDC, the interpretation of the zoning map it incorporates, or the application of rules and regulations adopted pursuant to the UDC.

B. Rules of Construction⁴³⁸

All words and terms used in this UDC have their commonly accepted dictionary meaning unless they are specifically defined in this UDC or the context in which they are used clearly indicates to the contrary. The following rules of construction apply:

1. All words used in the present tense include the future tense.
2. All words used in the singular number include the plural, and words in the plural number include the singular.
3. The masculine gender shall include the female and neutral.
4. The word “shall” is mandatory, and not discretionary, and the word “may” is permissive.
5. The word “building” shall include the word “structures.”
6. The phrase “used for” includes the phrases “arranged for,” “designed for,” “intended for,” “maintained for,” and “occupied for.”
7. The words “land,” “property,” “parcel,” “premise,” and “tract” are all interchangeable unless the context clearly indicates to the contrary.
8. The word “individual” includes a “firm,” “association,” “organization,” “partnership,” “trust,” “company,” or “corporation” as well as a single individual.

Section 60.600.020 RULES OF MEASUREMENT

A. Rounding of Numeral Requirements⁴³⁹

The application of UDC standards resulting in fractional requirements shall be treated in the following way:

⁴³⁷ Source: 60.161.

⁴³⁸ Source: 60.164. New heading and updated provisions.

⁴³⁹ Source: 60.163.

1. Off-Street Parking Spaces

The requirement for a fractional space shall be rounded up to the next whole number, resulting in the provision of one full space.

2. Setbacks

a. No rounding of fractional requirements shall occur. When checking actual on-site measurements, the Community Development Director shall recognize the inherent difficulty in providing for an exact building location and shall permit minor deviations to occur as long as the spirit and intent of the UDC is met.

b. Setbacks shall be measured from the wall of an accessory structure.⁴⁴⁰

3. Density or Floor Area

Calculations resulting in a fractional unit may be rounded up to the next whole number.

4. Height

No rounding of fractional requirements shall occur. When checking actual on-site measurements, the Community Development Director shall recognize the inherent difficulties in establishing final grade lines during construction and shall permit minor deviations to occur as long as the spirit and intent of the UDC is met.

5. Plant Materials

Calculations resulting in provision of a fractional plant unit shall be rounded up to the next whole number.

B. Parking Space Calculation⁴⁴¹

The following shall be used in determining the number of off-street parking spaces required.

1. Floor Area

In the case of office, merchandising and business and personal service uses, "floor area" shall mean the gross floor area used or intended to be used by tenants for their primary business activity or for service to the public as customers, patrons, clients, or patients, including areas occupied by offices, public areas, or the display of merchandise. It shall not include areas used principally for non-public purposes, such as storage, the incidental repair, processing or packaging of merchandise, for show windows, for restrooms, areas devoted to mechanical equipment, or for dressing rooms.

2. Places of Public Assembly

In places of public assembly where patrons occupy benches, pews or other similar seating facilities, each 20 inches of seating shall be counted as one seat for the purpose of determining the requirements of off-street parking.

3. Employee(s)

Reference to "employees on the largest work shift" means the maximum number of employees employed at the facility regardless of whether such person is a full time

⁴⁴⁰ Source: 62.273.

⁴⁴¹ Source: 63.422. These current rules of measurement may be revisited when the parking regulations are drafted as part of Installment 2.

employee. The largest work shift may be a particular day of the week, daily work shift, or peak period such as the lunch or dinner period in the case of a restaurant.

4. Capacity

The maximum number of persons that may be accommodated by the use as defined by building or fire code requirements.

C. Public Notice Periods⁴⁴²

For purposes of calculating required public notice periods or deadlines related to the filing or processing of applications under the UDC, those days (as the word is commonly defined and used) when the offices of Olmsted County, Minnesota, are open to the public.

Section 60.600.030 DEFINITIONS⁴⁴³

ABUT

To share a common lot line for a distance greater than a point.

ACCESS

A way or means of approach to provide physical vehicular entrance to a property.

ACCESS ROADWAY

A roadway, privately owned and maintained and established on an easement or common area, providing joint right of access for more than four lots.

ACCESSORY BUILDING, STRUCTURE OR USE

A building, structure or use located or conducted upon the same lot (or on a contiguous lot in the same ownership) as the primary building, structure or use to which it is related, that is 1) clearly incidental to, and customarily found in connection with, such primary building or use and 2) is operated and maintained for the benefit or convenience of the owners, occupants, employees, customers or visitors of the lot.

ACCESSORY DWELLING UNIT, ATTACHED⁴⁴⁴

A subordinate dwelling unit added to or created within a primary structure that provides basic requirements for living, sleeping, cooking, and sanitation.

ACCESSORY DWELLING UNIT, DETACHED⁴⁴⁵

A subordinate dwelling unit detached from a primary structure, but located on the same lot or parcel, that provides basic requirements for living, sleeping, cooking, and sanitation. A manufactured home or recreational vehicle, travel trailer, camper, or similar vehicle shall not be used as a detached accessory dwelling unit.

⁴⁴² Source: 60.200. Edited to be a standard rather than a definition.

⁴⁴³ Unless otherwise noted, the definitions from 60.200 were carried forward. Minor wording changes are not noted (e.g. removing legalese or converting '%' to 'percent'). All other changes are noted in footnotes. When all three Installments have been drafted and the Consolidated Draft is assembled, any definitions that are no longer used will be deleted.

⁴⁴⁴ The definitions for Accessory Apartment was replaced with this definition.

⁴⁴⁵ The definition for Rear Dwelling was deleted and replaced with this definition with the exception of the last sentence, which was carried forward from 62.278.

ACTIVE LIVING

A way of life that incorporates physical activity into daily routines.

ADEQUATE BUILDABLE AREA

An area that can accommodate a typical building anticipated for development on the lot after considering building setbacks, building envelopes, required parking areas and landscaping requirements.

ADULT BODY PAINTING STUDIO

An establishment or business that provides the service of applying paint or other substance whether transparent or nontransparent to or on the body of a patron when such body is wholly or partially nude in terms of "specified anatomical areas."

ADULT BOOKSTORE

A business engaging in the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audiotapes, videotapes or motion picture film, if such shop is not open to the public generally but only to one or more classes of the public, excluding any minor by reason of age, or if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas". The phrase "substantial or significant portion of such items" as used in the definition of an adult bookstore means at least 25 percent of the inventory, stock and trade, or publicly displayed merchandise, or at least 25 percent of the floor area of the business (not including storerooms, stock areas, bathrooms, basement or any portion of the business not open to the public).

ADULT CABARET

An establishment that provides dancing or other live entertainment, if such establishment excludes minors by virtue of age (except any business licensed under Rochester Code of Ordinance Chapter 125A) or if such dancing or other live entertainment is distinguished or characterized by an emphasis on the performance, dedication or description of "specified sexual activities" or "specified anatomical areas."

ADULT COMPANIONSHIP ESTABLISHMENT

A companionship establishment as defined in Rochester Code of Ordinances Section 105-01 that excludes minors by reason of age, or provides the service of engaging in or listening to conversation, talk or discussion between an employee of the characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

ADULT ENTERTAINMENT⁴⁴⁶

Adult bookstores, adult motion pictures theaters, adult mini-motion picture theaters, adult massage parlors, adult saunas, adult companionship establishments, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels or motels, adult body painting studios, and other adult establishments.

⁴⁴⁶ Source: 62.147. Further discussion of this approach to Adult uses with the City Attorney is required; there is an easier way to regulate these uses.

ADULT ESTABLISHMENT⁴⁴⁷

A business that is conducted exclusively for the patronage of adults and specifically excludes minors from patronage either by law or by the operators of such business and offers its patrons services or entertainment characterized by an emphasis on matter depicting, exposing, describing, discussing, or relating to specified sexual activities or specified anatomical areas.

ADULT HOTEL

A hotel that specifically excludes minors from patronage and wherein material is presented that is distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

ADULT MASSAGE PARLOR, HEALTH CLUB

A massage parlor as required to be licensed by Rochester Code of Ordinances Chapter 115 or a health club that restricts minors by reason of age, and provides the services of massage, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

ADULT MINI-MOTION PICTURE THEATER

A business premises within an enclosed building with a capacity for less than 50 persons used for presenting visual media material if such business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

ADULT MODELING STUDIO

An establishment whose major business is the provision, to customers, of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in specified sexual activities or display specified anatomical area while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

ADULT MOTION PICTURE ARCADE

Any place to which the public is permitted or invited wherein coin or slug-operated or electronically or mechanically controlled still or motor picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

ADULT MOTION PICTURE THEATER

A business premises within an enclosed building with a capacity of 50 or more persons used for presenting visual media material if said business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

⁴⁴⁷ Definition edited for clarity and simplicity. A reference to Chapter 125A was not carried forward because that Section was repealed.

ADULT NOVELTY BUSINESS

A business that has as a primary activity the sale of devices that simulate human genitals or devices that are designed for sexual stimulation.

ADULT SAUNA

A sauna as defined in Rochester Code of Ordinances Chapter 115, that excludes minors by reason of age, or provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

AFFECTED PARTY

For purposes of this UDC, the phrase includes any applicant or petitioner, the owner or occupant of the property under consideration if different from the applicant, and any owners of adjacent properties who are entitled to receive a notice of public hearing or a notice of action for the application involved. An individual may qualify as an affected party upon showing that he owns, controls, leases, or otherwise has an interest in property that will be substantially and directly affected by a proposal and that is located within 350 feet of the boundary of the property involved in the proposal.

AGRICULTURE PRODUCTION⁴⁴⁸

Establishments engaged in the production of crops, plants, or vines, including forestry, and the incidental sale of produce raised on the premises to individuals, or establishments in existence on [the effective date of this provision] that are engaged in the keeping, grazing, or feeding of livestock for sale, value increase, or livestock increase.

AGRICULTURE RETAIL⁴⁴⁹

Establishments and related land areas that are primarily engaged in providing services related to or conducting the sale at retail of horticulture and floriculture products, including nurseries, greenhouses, and other places used to raise flowers, shrubs, and plants for later retail or wholesale; lawn and garden services; ornamental shrub and tree services. These enterprises typically produce their own stock, unlike a garden center that imports from other establishments the products it sells at retail.

AGRICULTURE SUPPORT⁴⁵⁰

Establishments that support the agricultural community including but not limited to those engaged in farm equipment sales and repair, farm produce sales and supply, elevators, soil preparation services, crop services, farm management services, breeding services, experimental farms for research or educational services, and small scale farm product processing such as cidermills, dairies, poultry, or meat processing, and commercial stable operations, including riding stables, but not including any use meeting the definition of Agricultural Retail.

⁴⁴⁸ Source: 62.147.

⁴⁴⁹ Source: 62.148.

⁴⁵⁰ Source: 62.148. Added "commercial stable operations, including riding stables." Riding stables was previously referred to as 'Riding Academy.' Expanded to include the current Agriculture Services use.

AIRPORT-RELATED DEFINITIONS

When used in the context of regulating airports, the following terms shall have the definitions shown below.

AIR TRANSPORTATION⁴⁵¹

Establishments engaged in domestic, emergency, or foreign transportation of passengers or goods by air, including airports, flying fields, rotorcraft terminals, and any associated terminal facilities.

AIRPORT⁴⁵²

The Rochester International Airport located in the City of Rochester, and High Forest Township, Olmsted County, Minnesota.

AIRPORT ELEVATION⁴⁵³

The established elevation of the highest point on the usable landing area where elevation is established to be 1317 feet above mean sea level.

AIRPORT HAZARD⁴⁵⁴

Any structure, tree, or use of land that obstructs the air space required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at the airport; and any use of land that is hazardous to persons or property because of its proximity to the airport.

APPROACH AREA⁴⁵⁵

All land directly or vertically under the approach surfaces as specified in the APO district regulations.

LANDING AREA⁴⁵⁶

The area of the airport used for the landing, taking off, or taxiing of aircraft.

NONPRECISION INSTRUMENT RUNWAY⁴⁵⁷

A runway having an existing or planned straight in instrument approach procedure utilizing air navigation facilities with only horizontal guidance, and for which no precision approach facilities are planned or indicated on an approved planning document.

PRECISION INSTRUMENT RUNWAY⁴⁵⁸

A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), or a Precision Approach Radar (PAR) or a runway where a precision instrument approach system is planned and is so indicated on an approved planning document or Master Plan.

⁴⁵¹ Source: 62.145. Further discussion on whether this use include helipads is necessary.

⁴⁵² Source: Rochester International Airport Zoning Ordinance.

⁴⁵³ Source: Rochester International Airport Zoning Ordinance.

⁴⁵⁴ Source: Rochester International Airport Zoning Ordinance.

⁴⁵⁵ Source: Rochester International Airport Zoning Ordinance.

⁴⁵⁶ Source: Rochester International Airport Zoning Ordinance.

⁴⁵⁷ Source: Rochester International Airport Zoning Ordinance.

⁴⁵⁸ Source: Rochester International Airport Zoning Ordinance.

RUNWAY⁴⁵⁹

Any existing or planned paved surface or turf covered area of the airport that is specifically designated and used or planned to be used for the landing and/or taking off of aircraft.

UTILITY RUNWAY⁴⁶⁰

A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.

VISUAL RUNWAY⁴⁶¹

A runway intended solely for the operation of aircraft using visual approach procedures, with no straight in instrument approach procedure and no instrument designation indicated on an approved planning document.

AISLE

As used in regulations related to parking, a traveled way in a parking lot by which cars enter and depart parking spaces.

ALCOHOLIC BEVERAGE

Any beverage containing more than one-half of one percent alcohol by volume.

ALLEY

A public or private street primarily designed to serve as secondary access to the site or rear of those properties whose primary frontage is on some other street.

ALTERATION (OF A BUILDING)

See Structural Alteration (of a Building).

ANIMAL FEEDLOT

A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising or holding of animals exceeding 10 animal units and specifically designated as a confinement area where manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. A pasture shall not be considered an animal feedlot.

ANIMAL HUSBANDRY⁴⁶²

The keeping of domestic animals, such as horses, dogs, cats, bees, not primarily for produce or value increase but rather for show, sport, or as pets.

ANIMAL UNIT

A unit of measure used to compare differences in the production of animal manure that employs as a standard the amount of manure produced on a regular basis by different types of animals. For purposes of this UDC, the animal unit or animal unit calculation measure shall be the same unit of

⁴⁵⁹ Source: Rochester International Airport Zoning Ordinance.

⁴⁶⁰ Source: Rochester International Airport Zoning Ordinance.

⁴⁶¹ Source: Rochester International Airport Zoning Ordinance.

⁴⁶² Source: 62.148.

measure currently used by the Minnesota Pollution Control Agency in Chapter 7020 of the Minnesota Rules relating to animal feedlots and storage, transportation, and utilization of animal manure.

ANNEXATION

The incorporation of a land area into the City of Rochester with a resulting change in the boundaries of the City.

ARCADE

A covered passageway, typically found at street level and often comprised of a series of arches supported by columns, which is accessible and open to the public.

ARCHERY RANGE

An area or facility designated or operated primarily for the use of an archer, bow and arrow, long bow, recurve bow, compound bow, or crossbow.

ART GALLERY, MUSEUM, AND LIBRARY⁴⁶³

A facility or area that is open to the public and is intended for the acquisition, preservation, study, and exhibition of works of artistic, historical, or scientific value.

ART STUDIO AND WORKSHOP⁴⁶⁴

A facility that includes work or teaching space for one or more artists, artisans, or musicians.

ARTISAN MANUFACTURING⁴⁶⁵

Application, teaching, making, or fabrication of crafts or products by an artist, artisan, or craftsperson either by hand or with minimal automation and may include direct sales to consumers, in a facility not exceeding 10,000 square feet in gross floor area. This definition includes uses such as small-scale fabrication, manufacturing, and other industrial uses and processes typically not permitted in non-industrial zoning districts such as welding and sculpting.

AUDITORIUM OR CIVIC CENTER⁴⁶⁶

A hall or seating area, generally enclosed, where an audience views a musical or theatrical performance, concert, sporting, or other entertainment event.

AUTOMOTIVE CENTER⁴⁶⁷

An establishment that is engaged in both the retail sales of a limited or full range of auto parts and fuels and the repair and maintenance of automobiles and light trucks. Self service, automated, or full service car washes as a primary use of property are included in this.

AUTOMOTIVE DEALERSHIP

An establishment engaged in the retail sale, leasing, repair and servicing of automobiles and light trucks, where vehicles for sale are on display in a showroom or on a lot for the traveling public.

⁴⁶³ New.

⁴⁶⁴ New.

⁴⁶⁵ New.

⁴⁶⁶ New.

⁴⁶⁷ Source: 62.143. Combined with Automotive Maintenance Center definition.

AUTOMOTIVE REPAIR SERVICES, MAJOR⁴⁶⁸

Establishments involved in the major repair of automobiles and light trucks, where the service is non-routine in nature, affecting major structural or mechanical components of the vehicles, that may involve storage of the vehicle for multiple days on the site. The repair of all other classes of trucks and motor homes is included.

AWNING

A fixed or retractable shelter projecting from and supported by the exterior wall of a building constructed of non-rigid materials on a supporting framework, often made of wood, cloth, vinyl, or other flexible material.

BALCONY

A porch or other partially enclosed exterior platform designed for outdoor use attached to the upper floors of a building.

BAR OR TAVERN⁴⁶⁹

An establishment primarily engaged in the selling of drinks for consumption on the premises, where entertainment and the incidental sale of prepared food for consumption on the premises are permitted accessory uses. These establishments may charge a fee or admission charge for the entertainment provided. Included in this category are bars, beer gardens, discotheques, night clubs, taverns, hookah bars, and dance halls.

BASEMENT

Any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

BED AND BREAKFAST⁴⁷⁰

The commercial rental of bedrooms within a private residence, providing temporary accommodations, and typically including a morning meal to overnight guests.

BEDROOM

In a multifamily or attached dwelling, a private room planned and intended for sleeping, separated from other rooms by a door, and accessible to a bathroom without crossing another bedroom or other living area.

BLANK WALL

A wall (including building facades and retaining walls) if it meets any of the following:

1. A wall or portion of a wall with a surface area of at least 400 square feet having both a length and a width of at least 10 feet without a transparent window or door, building modulation at least one foot in depth, or other architectural feature;
2. Any portion of a wall between three and 13 feet above ground level with a horizontal dimension longer than 15 feet without a window, door, building modulation at least one foot

⁴⁶⁸ Source: 62.143.

⁴⁶⁹ Source: 62.147. Hookah bars were added to this definition. Further discussion on whether hookah bars should be listed as a separate use or included in another definition is required.

⁴⁷⁰ New definition to reflect changes in Use Specific Standards.

in depth, or other architectural feature including art work (such as mosaic, mural, sculpture, or relief), or qualifying landscaping. Qualifying landscaping includes a landscape planting bed at least five feet wide or a raised planter bed at least two feet high and three feet wide in front of the wall with planting materials that are sufficient to obscure or screen at least 35 percent of the wall's surface within three years.

BLOCK

A parcel or group of parcels forming a unit of land bounded on all sides by a street or other transportation routes or by physical barriers such as water, or public open space.

BLUFF

A topographic feature such as a hill, cliff, or embankment having the following characteristics (an area with an average slope of less than 18 percent over a distance for 50 feet or more shall not be considered part of the bluff):

1. Part or all of the feature is located in a shoreland area;
2. The slope rises at least 25 feet above the ordinary high water level of the waterbody;
3. The grade or slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30 percent or greater; and
4. The slope must drain toward the waterbody.

BLUFF IMPACT ZONE

A bluff and land located within 20 feet from the top of a bluff.

BLUFF, TOE OF THE

The lower point of a 50-foot segment with an average slope exceeding 18 percent.

BLUFF, TOP OF

The higher point of a 50-foot segment with an average slope exceeding 18 percent.

BOARD OF APPEALS

The Zoning Board of Appeals of the City of Rochester, Minnesota.

BOULEVARD

That portion of the right of way outside the vehicle travel lanes that may contain sidewalks, landscaped area, infrastructure, or amenities.

BUFFERYARD

A unit of yard together with the plantings required thereon designed to mitigate nuisance between adjacent land uses or between a land use and a public street.

BUILD-TO LINE

The line at which construction of a building, excluding porches, bay windows, covered porches, decks, and patios, is to occur on a lot. A build-to line typically runs parallel to the front property line and is established to create an even building façade line on a street.

BUILDABLE AREA

The area of a lot remaining after the minimum yard or setback requirements of this UDC have been met.

BUILDING⁴⁷¹

Any structure utilized or intended for supporting or sheltering any occupancy. Where roofed structures are separated from each other by party walls having no openings for passage, each portion so separated shall be deemed a separate building.

BUILDING CODE

Rochester Code of Ordinances Chapter 50.

BUILDING CODE, STATE

The Minnesota State Building Code, setting forth standards for the construction, addition, modification, and repair of buildings and other structures for the purpose of protecting the health, safety, and general welfare of the public, that has been adopted by the City of Rochester.

BUILDING FRONT

The wall of a building that faces the front lot line of a lot.

BUILDING LINE

A line parallel to the front lot line at a distance equal to the minimum depth of the front yard required for the zoning district where the lot is located.

BUILDING PERIMETER

The horizontal distance measured along those walls from which, when viewed from above, lines drawn perpendicular to the wall will intersect a lot line without intersecting another wall of the building.

BUILDING, PRIMARY

A building in which is conducted, or that is intended to be conducted, the primary use of the lot on which it is located.

BUILDING, TEMPORARY

See Structure, Temporary

BUSINESS OR PERSONAL SERVICE⁴⁷²

An establishments primarily engaged in providing services involving the care of a person or his or her apparel or rendering services to business establishments on a fee or contract basis, such as barber shops, clothing rental, tattoo or piercing parlor, photographic studios, cleaning and garment services (but not including power laundries or dry cleaning plants), coin operated laundries, advertising and mailing, building maintenance, office equipment rental and leasing, photo finishing, business supply

⁴⁷¹ First sentence modified to align with Building Code.

⁴⁷² Source: 62.142. Business and Personal Service definitions were combined. Locksmiths and repairs of small goods and equipment are now included.

services computer programming/data processing services, locksmiths, and repair of business or household goods and equipment generally weighing less than 25 pounds.

BUSINESS CENTER⁴⁷³

A building or group of buildings planned, constructed, and managed as a single entity, and generally with common on-site parking for a group of commercial, office, or service establishments.

BUSINESS PARK

A development planned as a total entity for a group of commercial, light industrial, office or service establishments with coordinated standards for lighting, sign, grading, landscaping, and storage and with development-level controls on trip generation.

CALIPER

A nursery stock measurement in inches of tree trunk diameter used to standardize plant size. Trunk caliper for trees up to four inches is to be measured six inches above the soil line and trees greater than four inches in caliper are measured 12 inches above the soil line.

CAMPGROUND OR RV PARK⁴⁷⁴

An establishment engaged in providing overnight or short-term sites for the placement of recreational vehicles or temporary housing, with or without facilities such as water and electricity. This does not include long-term storage or Recreational Vehicles.

CAPACITY

The maximum number of persons that may be accommodated by a development as determined by building code or fire code requirements.

CARNIVAL OR FESTIVAL⁴⁷⁵

A temporary festival typically offering amusement rides, variety shows, or other entertainment.

CARPORT

An shelter for one or more automotive vehicles that is open on at least two sides, formed by a roof projecting from the side of a building or a detached structure of the same type.

CEMETERY⁴⁷⁶

Land used or intended to be used for the burial of the dead, including animals, and dedicated for cemetery purposes. Permitted uses include a columbarium, mausoleum, or crematorium.

CERTIFICATE OF APPROPRIATENESS⁴⁷⁷

A permit issued by the Heritage Preservation Commission granting a petitioner approval for the alteration, change, demolition, relocation, excavation, or new construction of a structure within a local historic or conservation district.

⁴⁷³ The R-4 exception was not carried forward.

⁴⁷⁴ Source: 62.147. Last sentence added.

⁴⁷⁵ New.

⁴⁷⁶ New.

⁴⁷⁷ New.

CERTIFICATE OF ECONOMIC HARDSHIP⁴⁷⁸

A permit issued by the City determining that a property owner has been denied all reasonable beneficial use or return on the property as a result of the denial of a permit for alteration or demolition.

CHAIN-LINK FENCE

A fence of steel or aluminum posts and wires woven into a diamond pattern that may have a galvanized, painted or vinyl coated exterior finish.

CHANGE OF USE

A use that differs from the previous use of a building or land in terms of major retail product mix, services offered, production methods, type, or intensity of residential use.

CHILD⁴⁷⁹

An individual who has not reached 18 years of age.

CITY

The incorporated City of Rochester, Olmsted County, State of Minnesota.

CITY ENGINEER⁴⁸⁰

The individual designated as the city engineer by the Public Works Director.

CLINIC⁴⁸¹

An establishment engaged in the care, diagnosis, and treatment of sick, ailing, infirm and injured persons, and those in need of medical, dental, vision, and/or surgical attention, but who are not provided with board or room, nor kept overnight on the premises.

COLLEGE OR UNIVERSITY⁴⁸²

An institution other than a trade school that provides full-time or part-time education beyond high school.

COMMISSION⁴⁸³

Unless the context clearly indicates otherwise, "Commission" means The Planning and Zoning Commission of the City of Rochester, Minnesota.

COMMISSIONER⁴⁸⁴

Unless the context clearly indicates otherwise, "Commissioner" means the commissioner of the Department of Natural Resources of the City of Rochester, Minnesota.

⁴⁷⁸ New.

⁴⁷⁹ Updated for clarity.

⁴⁸⁰ Updated for current practice.

⁴⁸¹ Added reference to dental and vision.

⁴⁸² New.

⁴⁸³ Edited for parallel construction.

⁴⁸⁴ Edited for parallel construction.

COMMON DRIVEWAY⁴⁸⁵

A driveway shared and used jointly to provide access to two or more residential or nonresidential properties.

COMMUNICATIONS TOWER⁴⁸⁶

A tower structure and related equipment enabling the transmission of electronic signals via wired and wireless means, but not including any use meeting the definition of a Commercial Wireless Telecommunications Service.

COMMUNITY CENTER⁴⁸⁷

A building or portion of a building used for nonprofit, cultural, educational, recreational, religious, or social activities that is open to the public or a designated part of the public, usually owned and operated by a public or nonprofit group or agency.

COMMUNITY DEVELOPMENT DIRECTOR

The Community Development Director as provided for in the Rochester Code of Ordinances Chapter 20-16, or his or her authorized representative.

COMMUNITY GARDEN⁴⁸⁸

The cultivation of food and/or horticultural crops, composting, aquaponics, aquaculture and/or hydroponics including but not limited to gardens, container gardens, edible landscapes, residential greenhouses, herb gardens, rooftop gardens, berry patches, vegetable gardens. All of which may include the production and sale of food products from food grown on the premises. Community Garden may be divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include common areas maintained and used by group members.

COMMUNITY PARKING LOT

A public or private land area designed for the off street parking of motor vehicles that is not associated with any primary use or building on the same lot.

COMPREHENSIVE PLAN

The adopted goals, policy statements, standards, programs, and maps for guiding the physical, social, and economic development, both public and private, of the City and its environs, including any unit or part of such plan separately adopted, and as amended by City Council.

CONGREGATE HOUSING⁴⁸⁹

A dwelling providing shelter and services that may include meals, housekeeping, personal care assistance and minor medical services, but not intermediate, long term or extended nursing care for

⁴⁸⁵ Definition generalized to remove limit of serving only two residential properties. That is a regulation that should be included in development standards rather than a definition.

⁴⁸⁶ Source: 42.145. Revised to align with Building Code and to focus on towers (since most other communications facilities are simply office or warehouse uses) and to avoid overlaps with the CWTS use.

⁴⁸⁷ New. References to Advanced Educational Facility in the current LDM is included in this definition.

⁴⁸⁸ New.

⁴⁸⁹ Source: 63.142. Edited to clarify that it is not a FHAA use and remove a reference to elderly.

residents. Congregate housing does not fall within the Fair Housing Amendments Act (FHAA) nor does it meet the definition of any other group living use.

CONTIGUOUS⁴⁹⁰

Next to, abutting, or touching and having a boundary, or portion thereof, tis coterminous.

CONTRACTOR'S OFFICE AND YARD⁴⁹¹

A temporary building or structure used as a construction office or outdoor storage area for equipment and materials for a project located on the same site during its construction.

CORNICE

A horizontal decorative projection located at the top of a building near the roof line, which may include a roof overhang.

CORRECTIONAL FACILITY

A building along with associated lot area designed for the confinement of individuals for the purpose of discipline or punishment or incarceration of convicted criminals.

COUNCIL

The City Council of the City of Rochester, Minnesota.

COUNTY

The County of Olmsted, Minnesota.

CRAWL SPACE

A low space below the first story of a building, where there has not been excavation deep enough for a basement, but where there is space for installation of and service to pipes, ducts, and utilities.

CURB

A stone, asphalt, or concrete boundary marking the edge of a roadway or paved area.

DAY CARE FACILITY

A licensed private or public establishment that for gain or otherwise, regularly provides one or more dependents with care, training, supervision, rehabilitation, or developmental guidance on a regular basis, for periods of less than 24 hours a day, in a place other than the dependent's home.

DECIBEL (dB)

A unit of sound pressure level, abbreviated as dB.

DECK

A structure open to the sky that is attached to or abuts the wall of a dwelling and is afforded access to the interior of the dwelling through one or more doors. Structures 30 inches or more above grade are considered accessory structures, while structures lower to the ground are considered permitted projections into required yards.

⁴⁹⁰ Further discussion on whether this can be deleted and instead using "abutting" when you mean the property lines actually touch at more than a point, and "adjacent" whenever you mean properties that would touch at more than a point if they were not separated by a street, alley, river, stream, or railroad right-of-way.

⁴⁹¹ Source: 62.146. Edited to align with new approach.

DECORAH EDGE-RELATED DEFINITIONS

When used in the context of regulating the Decorah Edge area, the following terms shall have the definitions shown below.

DECORAH EDGE⁴⁹²

Decorah Edge shall include the area:

1. Where the Decorah, Platteville, or Glenwood formation is the first-encountered bedrock according to the "Bedrock Geology: Steele, Dodge, Olmsted and Winona Counties" data plat produced by the Minnesota Geological Survey—University of Minnesota in 2004, as modified by field investigation, reliable well logs or more precise mapping;
2. Having a depth to bedrock of less than 25 feet according to the "Depth to Bedrock: Steele, Dodge, Olmsted and Winona Counties" data plat produced by the Minnesota Geological Survey—University of Minnesota in 2004, as modified by field investigation, reliable well logs or more precise mapping; and
3. Where there are contiguous adjacent areas with the Cummingsville or higher (Stewartville or Prosser) formations as the first-encountered bedrock. An area for which the first-encountered bedrock is the Decorah Shale, Platteville Limestone, or Glenwood Shale, that is separated from the Cummingsville or higher formations by a topographic saddle and is at a higher elevation than the saddle, is excluded from the Decorah Edge. For purposes of the DEO district, the term "saddle" means a ridge between two peaks or summits

EDGE SUPPORT AREA

Edge Support Area includes nonwetland areas with features associated with perched groundwater tables, groundwater discharges, or groundwater supported wetlands located in the Decorah Edge, including:

1. Haverhill (474B), Root (471) and Palms (528B) soils;
2. Areas where the seasonal groundwater table is within five feet of the surface and slopes are under 18 percent, including Shullsburg (312B or 312C), Littleton (477B), and similar soils;
3. Areas with slopes over 18 percent within 50 feet of groundwater supported wetlands or Haverhill (474B), Palms (528B), Shullsburg (312B or 312C), Littleton (477B) or similar soils;
4. Areas within 50 feet of springs;
5. Areas within 50 feet of seeps;
6. Areas of hydric soils in and adjacent to drainageways draining groundwater supported wetlands;
7. Areas within 50 feet of a perennial or ephemeral stream in the Decorah Edge; and
8. Areas of hydric soils buried by sedimentation adjacent to groundwater supported wetlands or in proximity to and at the same approximate elevation as groundwater supported wetlands..

GROUND WATER SUPPORTED SLOPE WETLAND

⁴⁹² Source: Rochester Code of Ordinances 6.3.2.

A wetland area that is saturated predominately by groundwater, including wetlands in the vicinity of springs or seeps. Such wetlands may be associated with highly organic peat-like soils such as Haverhill (474B) and Palms (528B) soils.

MINOR WATERSHED AREA

A minor watershed, as defined and mapped by the state department of natural resources division of waters in 1999, as revised, and distributed by the land management information center.

DEDICATION

The transfer of property interests from private to public ownership for a public purpose.

DEMOLITION PERMIT⁴⁹³

A building permit that authorizes the demolition or removal of an existing building or structure from a site. This permit is issued in accordance with the requirements of Minn. R. pt. 1300.0120.

DEPENDENT⁴⁹⁴

A child or individual with a mental or physical disability.

DEVELOPMENT

Any man-made change to improved or unimproved real estate, including a change in use or the creation of a subdivision.

DORMITORY⁴⁹⁵

A multifamily dwelling designed primarily as housing for, or likely to be occupied by, undergraduate or post-graduate students.

DRAINAGEWAY

A above-ground channel that provides for the collection and conveyance of stormwater runoff from a watershed area of over 1,200 acres in size, that is not part of a designated floodplain. The area of the drainageway shall be calculated as that area needed to convey the water of a 100 year rainfall within the watershed.

DRIVE-IN FACILITY⁴⁹⁶

An accessory use that by design, physical facilities, service, or by packaging procedures encourages or permits customers to receive services or obtain goods while remaining in their motor vehicles, but not including any use meeting the definition of Outdoor Entertainment or Recreation.

DRIVEWAY

A private minor vehicular access between a street or roadway and a designated off street parking area.

⁴⁹³ Source: Rochester Code of Ordinances, 4-7-4.

⁴⁹⁴ Revised for best practices.

⁴⁹⁵ New.

⁴⁹⁶ Source: 62.149. Revised to remove entertainment in the vehicle, which is now included in Outdoor Entertainment or Recreation.

DWELLING, ATTACHED⁴⁹⁷

A building containing three or more dwelling units arranged side by side, separated from each other by a firewall and having separate direct means of egress and ingress to each unit from the outside.

DWELLING, COTTAGE DEVELOPMENT

A shared-interest low-density residential community in which multiple small individual dwellings are served by shared private ways or infrastructure, and in which the development intensity may be measured by the amount of gross floor area in residential dwelling units rather than the number of residential dwelling units. A cottage development may include a combination of dwelling units with shared facilities including but not limited to open space, parking lots or carports, gardens, recreation areas, community building(s) with facilities such as a kitchen and dining area, and meeting and activity spaces.

DWELLING, DUPLEX⁴⁹⁸

A building on a single lot containing two dwelling units.

DWELLING, FOURPLEX⁴⁹⁹

A single building on a single lot containing four dwelling units under one roof, each of which is occupied by one family.

DWELLING, LIVE/WORK

A dwelling unit containing an integrated living and working space in different areas of the unit, and in which the dwelling areas are located above or behind the working space, in order to allow the ground floor working space at the front of the building to serve patrons or customers .⁵⁰⁰

DWELLING, MULTIFAMILY⁵⁰¹

A building containing five or more dwelling units on a single lot, including but not limited to apartments, cooperative apartments, and condominiums. Regardless of how rental units are equipped, any multifamily dwelling in which units are available for rental periods of one week or less shall be considered a hotel or motel.

DWELLING UNIT⁵⁰²

A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

DWELLING, SINGLE FAMILY DETACHED⁵⁰³

A detached building, whether stick-built or manufactured, containing one dwelling unit located on a single lot.

⁴⁹⁷ New.

⁴⁹⁸ Renamed from Duplex.

⁴⁹⁹ New.

⁵⁰⁰ New.

⁵⁰¹ Source: 62.141. Revised from three to five dwelling units, because of new definitions for Triplex and Fourplex.

⁵⁰² Revised to align with Building Code.

⁵⁰³ Renamed from One Family Detached. The current definition has a mix of development, dimensional, and design standards that will be addressed elsewhere. This definition includes manufactured homes.

DWELLING, TRIPLEX⁵⁰⁴

A single building on a single lot containing three primary dwelling units under one roof, each of which is occupied by one family.

DWELLING, TWIN-HOME⁵⁰⁵

A building containing one dwelling unit attached to one other building containing only one dwelling, with each building on a separate lot.

EARTH BERMED

Buildings constructed so that there is earth covering on above grade portion of building walls and no earth covering on the roof. The total amount of the earth covering is less than 50 percent of the walls and roof surface area.

EARTH SHELTERED

Buildings constructed so that more than 50 percent of the exterior surface area of the building, excluding garages and other accessory buildings, is covered with earth and the building code standards promulgated pursuant to Minnesota Statutes 16.85 are satisfied. Partially completed buildings shall not be considered earth sheltered.

EASEMENT

A grant of one or more of the property rights by the property owner to and for use by the public, a corporation, or another individual or entity.

EASEMENT, DRAINAGE

An easement required for the installation of storm water sewers or surface drainage channels, or the preservation or maintenance of a natural stream or watercourse.

EASEMENT, UTILITY

An easement required for the installation of overhead or underground utilities, including but not limited to sanitary sewer, water, electric, gas, and audio or visual communication lines.

ELECTRIC VEHICLE CHARGING STATION⁵⁰⁶

A facility or area where electric-powered or hybrid-powered motor vehicles can obtain electrical current to recharge batteries and that is accessory to a primary use of the property. This use can be incidental to any allowable use in any zone district.

EMERGENCY SERVICE⁵⁰⁷

An establishment engaged in providing police, fire, ambulance services or related emergency first aid services.

ESTABLISHMENT

An economic unit, generally at a single physical location, where business is conducted, services provided, or industrial operations performed.

⁵⁰⁴ New.

⁵⁰⁵ Renamed from One Family Attached.

⁵⁰⁶ New.

⁵⁰⁷ Source: 62.145. Expanded to cover police and fire services.

EXCAVATION

The artificial removal of earth material.

EXCAVATION ACTIVITIES

Activities involving Substantial Land Alteration, Quarry, or Sand or Gravel Excavation.

EXPOSURE⁵⁰⁸

For purpose of _____ regulation, a method of classifying the walls of a building based on the type of construction and the purposes that glassed areas contained within the wall serve. In this UDC, the following five classes of exposure are defined.

Class A Exposure

Walls containing 25 percent or more of the required glassed area of any dwelling unit, or a wall containing the primary living room exposure to outdoor living areas through major windows or glassed doors. Prime consideration is direct view of and convenient access to the primary landscaped area and recreation space on the lot. In the case where two walls provide this type of exposure from a living room, either may be selected as the Class A exposure, and the other shall be considered Class C.

Class B Exposure

Portions of walls containing the only windows for bedrooms, or the primary windows and/or glassed doors for bedrooms, where privacy, outlook, light, and air are primary considerations.

Class C Exposure

Portions of walls containing secondary windows for bedrooms, windows for living rooms, or exterior doors other than entries with Class A orientations, where such windows do not involve privacy or are so located, shielded, or are of such a nature that necessary privacy is assured.

Class D Exposure

Portions of walls containing no windows, doors, or other openings, but not so constructed or safeguarded as to be suitable for attachment to other dwelling units or primary buildings. Principal concern in such cases is with fire protection.

Class E Exposure

Portions of walls containing no windows, doors, or other openings, and so constructed or safeguarded as to provide the fire protection required by the Building Code when attached to other dwelling units or other primary buildings, and to meet the sound transmission limitations of the Building Code.

EXTERIOR WOOD

The heartwood from species of wood having natural resistance to decay, including redwood, cedars, and black locust; grades of lumber that contain sapwood from species of wood having a natural resistance to decay, including redwood and cedars; or treated wood.

⁵⁰⁸ These will be evaluated as a part of a later installment.

FAÇADE

The exterior walls of a building exposed to public view from a public street. The wall visible from a public street or parking lot and used for the main public access or that has distinguishing architectural features will be considered the primary façade. A wall that is visible from a public street or parking lot serving the business center but not the main access to the building is considered the secondary façade.

FAMILY⁵⁰⁹

Family is defined as:

1. One or more individuals related by blood, marriage, or adoption, including foster children, and excluding servants,
2. A group of not more than five persons, some or all of whom are not related by blood, marriage or adoption, occupying a single dwelling unit or manufactured home, or
3. Any group of people whose right to live together as a household is protected by the federal Fair Housing Amendments Act as amended and interpreted by the courts.

FAST FOOD RESTAURANT⁵¹⁰

An establishment whose primary business is the sale of food and/or beverages in a ready to consume state for consumption within the restaurant building, within a motor vehicle parked on the premises, or off the premises as a carry out order, and whose principal method of operation involves serving food and/or beverages in edible containers or in paper, plastic, or other disposable containers.

FENCE

An artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

FILL

A deposit of earth material placed by artificial means.

FINANCIAL INSTITUTION⁵¹¹

A facility that provides financial and banking services to individuals and businesses. These services may include deposit banking and closely related functions such as making loans, investments, check cashing, and fiduciary activities. Accessory uses may include automatic teller machines and offices.

FIREARM

A gun including but not limited to pistols, revolvers, rifles, muzzleloaders, and shotguns that discharges shot or a projectile by means of an explosive, a gas, or compressed air.

FITNESS CENTER⁵¹²

An Indoor Entertainment or Recreation use consisting of a building or portion of a building designed and equipped for the conduct of exercise in a place with facilities and equipment for people to

⁵⁰⁹ Third definition added to simplify compliance with the Fair Housing Act. This additional definition needs to be reviewed with the City Attorney.

⁵¹⁰ Source: 62.143.

⁵¹¹ New.

⁵¹² Size limit of 5,000 sq. ft. was removed and relocated as a use-specific standard for the R-4 and MX-N districts.

maintain or improve their physical fitness, operated for profit or not-for-profit, and that can be open only to bona fide members and guests of the organization, or open to the public for a fee with limited hours.

FLAG LOT⁵¹³

A lot that has only sufficient frontage on a street to comply with the required access width requirements of this UDC, shaped in such a manner that the portion of the lot closest to the street can only be used for access purposes and not as yard or buildable area, and whose width some distance back from the right of way is sufficient to provide adequate space to meet yard or setback requirements. Only that portion of the lot of adequate width to meet lot width requirements or allow for provision of adequate yards or setback shall be counted as part of the lot area.

FLOOD PROTECTION-RELATED DEFINITIONS

When used in the context of regulating flood protection, the following terms shall have the definitions shown below.

AO ZONE

An area of shallow flooding shown on the City of Rochester's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and undetermined, and where low velocity flow may be evident.

EQUAL DEGREE OF ENCROACHMENT

A method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

FLOOD FRINGE

That portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study.

FLOOD PLAIN

The land adjacent to a body of water that has been or may be hereafter covered by flood water including that land covered by the regional flood.

FLOOD PROOFING

Any combination of structural and nonstructural additions, changes or adjustments to structures and properties that reduce or eliminate flood damage to real estate, water and sanitary facilities, structures, and their contents.

FLOOD PROTECTION ELEVATION

A level one foot above the regional (100 year frequency) flood plus any increase in flood level adopted by DNR study that would be caused by the future flood plain development outside the floodway.

⁵¹³ This definition may be revised when the lot and dimensional standards are reviewed in Installment 2.

FLOOD, REGIONAL

A flood that is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100 year recurrence interval. Regional flood is synonymous with the term "base flood" used in the Flood Insurance Study.

FLOOD, STANDARD PROJECT

A hypothetical flood estimated and mapped by the U.S. Corps of Engineers, representing the critical flood runoff volume and peak discharge that may be expected from the most severe combination of meteorological and hydrologic conditions that are considered reasonable characteristic of the Rochester region, excluding rare combinations.

FLOODWAY

The minimum channel of a watercourse and those portions of the flood plain adjoining the channel, that are reasonably required to carry or store the regional flood discharge.

FP 1, FP 2, FP 3, FP 4, FP 5

Different classifications of flood proofing measures as defined by the state building code.

FREEBOARD

A factor of safety usually expressed in feet above a design flood level for flood protective or control works. (Freeboard is intended to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected flood or floodway condition such as wave action, bridge opening and floodway obstructions resulting from debris or ice, and the hydrologic effects of urbanization of the watershed).

LETTER OF MAP AMENDMENT (LOMA)

A document issued by the Federal Emergency Management Agency providing documentation for findings that have been made showing that single a lot or single structure is not located in a Special Flood Hazard Area as defined in 44 CFR 59.

OBSTRUCTION

Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood plain that may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

ORDINARY HIGH WATER LEVEL

The boundary of public waters and wetlands and shall be an elevation delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

FLOOR AREA (OF A BUILDING)

The sum of the gross horizontal area of the several floors of a building measured from the outside faces of walls or the centerline of party walls separating two buildings, but not including any interior parking spaces, loading spaces, any space where the floor to ceiling height is less than six feet, any space devoted to mechanical equipment, terraces, breezeways or screened porches, or basement or other subterranean area not intended for human habitation or service to the public. The floor area for enclosed space having a floor to ceiling height in excess of 20 feet shall be computed on the basis that each 15 feet of height shall be equal to one floor.

FOUNDATION OR, FOUNDATION SYSTEM

A permanent foundation that provides adequate support of the building's vertical and horizontal loads and transfers these and other imposed forces, without failure, from the building to the undisturbed ground below the frost line and constructed in accordance with the state building code as adopted by the City.

FUELING STATION⁵¹⁴

A facility where fuels like diesel, gasoline, ethanol, natural gas, electricity, and hydrogen; related supplies for motorists; and convenience foods and goods are sold. All services included in Automotive Center are excluded.

FUEL TANK⁵¹⁵

A safe container for flammable fluids.

FUNERAL HOME⁵¹⁶

An establishment providing services such as preparing the human or animal dead for burial, cremating human remains, and arranging and managing funerals, and for which permitted accessory uses include a crematorium.

FRATERNITY OR SORORITY HOUSE

A dwelling maintained exclusively for fraternity or sorority members and their guests or visitors and affiliated with a professional college, university, or other Specialized Education.⁵¹⁷

FRONTAGE

The distance that a lot line coincides with the right of way line of a public street or the boundary of a private street.

GARAGE

A detached accessory building or a portion of a primary building used for the parking and storage of vehicles, merchandise, or equipment, and that is not a separate commercial establishment open to the general public. When associated with a residential use in a residential district, it shall be limited to use for parking and storage of vehicles, noncommercial trailers, and household equipment.

⁵¹⁴ New.

⁵¹⁵ New.

⁵¹⁶ New.

⁵¹⁷ This provision needs to be reviewed with the City Attorney; in some states it is illegal to make this turn on affiliation with a college or university, because it effectively delegates the legality of the use to the college or university ("defrocking" the frat makes it a non-conforming use), and some states say the college or university is an unelected body to which the City cannot delegate authority under state land use laws.

GARAGE SALE

The sale of used household belongings at a residential dwelling or residential neighborhood including but not limited to “home sale,” “estate sale,” “attic sale,” and “basement sale” and any other type of residential sale of tangible personal property.

GARDEN CENTER

A retail business for the display and sale of products either inside or outside of a building or structure. The products for retail sale that may be displayed and stored in a greenhouse or outdoors include those products related to gardening and landscaping including, but not limited to, outdoor live plants; landscaping materials such as lawn ornaments, pavers and landscape walls; bulk materials such as mulch, topsoil, rock and gravel; gardening supplies such as fertilizer, pesticides, and small hand tools. Related retail sales may also be part of a garden center including cut flowers, indoor live plants, Christmas trees and related retail products. Landscaping services may be a part of the garden center. Greenhouses or retail buildings and offices may be part of a permanent garden center.

GEOHERMAL ENERGY SYSTEM

Land area and equipment for the conversion of natural geothermal energy into energy for beneficial use.⁵¹⁸

GLARE

The effect produced by brightness sufficient to cause annoyance, discomfort or loss in visual performance and visibility.

GRADE

The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line, or between the building and a stabilization structure such as a retaining wall, or, where the property line or structure is more than five feet from the building, between the building and a line five feet from the building.

GRADING

Any excavation or fill combination of those activities.

GRADING PLAN

An integrated set of documents that addresses how a proposed development will satisfy the requirements of part 50.01 (2) of the Building Code.

GREENHOUSE

A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale, for personal enjoyment, or for the temporary storage or display of plant material.

GROSS LEASABLE AREA

The total floor area designed for the occupancy and exclusive use of a tenant.

⁵¹⁸ New.

HABITABLE ROOM

A room used or intended to be used for sleeping, cooking, living, or eating purposes, excluding such enclosed spaces as closets, pantries, bath or toilet facilities, service rooms, corridors, laundries, unfinished attics, foyers, storage space, utility rooms or similar spaces.

HABITABLE UNIT

A habitable room, singularly or in combination with other rooms, that provides sleeping facilities alone or in combination with required cooking, eating, or living facilities.

HEAVY COMMERCIAL SERVICES⁵¹⁹

An establishment that has an industrial character even though it is not involved in the manufacturing or processing of products including but not limited to a composting facility, contractor's office or yard, lumber yards, utility yards, public maintenance shops, carpet and rug cleaning, printing and publishing services, power laundries, and dry cleaning plants, that may generate negative impacts largely through their need for outside storage of equipment and materials, the large expanse of land needed for this storage, and the creation of dirt, dust, and noise, along with intermittent truck traffic.

HEIGHT (OF A BUILDING)

The vertical distance above grade along the building front measured to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the average height between the eave and ridge of a gable, hip, or gambrel roof.

HERITAGE PRESERVATION DEFINITIONS

When used in the context of regulating heritage preservation, the following terms shall have the definitions shown below.

DEMOLITION⁵²⁰

Any act or process that destroys in part or in whole a historic resource. This includes the removal of any material constituting part of a structure that affects the exterior appearance of the structure, other than for purposes of ordinary maintenance or repair, as well as inadequate maintenance or any other action that reduces the stability or longevity of a structure or impairs its historic or architectural integrity.

DEMOLITION BY NEGLECT⁵²¹

The long-term neglect of a historic structure that contributes to a level of dilapidation so severe that rehabilitation of the structure no longer serves as a viable option and demolition must be considered on account of the public health, safety, and welfare.

HERITAGE PRESERVATION PROGRAM⁵²²

A plan established by the city that contemplates a vision for the city's historic preservation program, setting near-term and long-term priorities for the program, and identifies proactive and innovative strategies for achieving the identified goals and objectives.

⁵¹⁹ Source: 62.146. Renamed from Non-Production Industrial. Current definition simplified and "contractor's office or yard, carpet and rug cleaning, printing and publishing services, power laundries, and dry cleaning plants" added.

⁵²⁰ Source: Rochester Code of Ordinances, 4-7-4.

⁵²¹ Source: Rochester Code of Ordinances, 4-7-4.

⁵²² Source: Rochester Code of Ordinances, 4-7-4.

HERITAGE PRESERVATION PROPERTY⁵²³

A property listed on the City's inventory and located within the Heritage Preservation Overlay district.

HISTORIC SITE⁵²⁴

The location of a significant event, a prehistoric or historic occupation or activity or a building or structure, whether standing, ruined or vanished, where the location itself possesses historic, cultural or archaeological value regardless of the value of any existing structure.

INTEGRITY⁵²⁵

The ability of a property to convey its significance relative to the aspects of location, setting, design, materials, workmanship and association.

INVENTORY⁵²⁶

A comprehensive listing of all heritage preservation properties and potential heritage preservation properties within Rochester.

OBJECT⁵²⁷

Construction other than a building or structure that is primarily artistic in nature or small in scale and simply constructed. It may be by nature or design movable, but it is associated with a specific setting and environment.

REHABILITATION⁵²⁸

Making a building or structure sound and usable without attempting to restore it to a particular period appearance while retaining the character-defining features.

RELOCATION⁵²⁹

Moving a building or structure from its original historically significant or existing location to another location.

REPAIR⁵³⁰

The limited replacement in kind, or with compatible substitute material, of extensively deteriorated or missing parts of features when there are surviving prototypes (for example: brackets, dentils, steps, plaster, or portions of slate or tile roofing).

RESTORE⁵³¹

The act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period.

⁵²³ New. This definition replaces "Designated Property."

⁵²⁴ Source: Rochester Code of Ordinances, 4-7-4. "Historic" added for clarity.

⁵²⁵ Source: Rochester Code of Ordinances, 4-7-4.

⁵²⁶ Source: Rochester Code of Ordinances, 4-7-4. Edited for consistency.

⁵²⁷ Source: Rochester Code of Ordinances, 4-7-4.

⁵²⁸ Source: Rochester Code of Ordinances, 4-7-4.

⁵²⁹ Source: Rochester Code of Ordinances, 4-7-4.

⁵³⁰ Source: Rochester Code of Ordinances, 4-7-4.

⁵³¹ Source: Rochester Code of Ordinances, 4-7-4.

HOME OCCUPATION⁵³²

Any gainful occupation or profession engaged in by the occupant of a dwelling unit at or from the dwelling unit.

HOTEL OR MOTEL⁵³³

A building or series of buildings operated as an establishment providing accommodations in habitable units by prior arrangements, for compensation, without restriction on the time period involved. Regardless of how rental units are equipped, any multifamily dwelling in which units are available for rental periods of one week or less shall be considered a hotel or motel.

HOUSING CODE

Rochester Code of Ordinances Chapters 32 through 38.

INDOOR ENTERTAINMENT OR RECREATION⁵³⁴

A commercial recreation facility that provides completely enclosed or indoor entertainment or recreation space, such as racquet clubs, indoor skating rinks or swimming pools, bowling alleys, billiard, pool, or bingo parlors, amusement arcades, indoor archery ranges, indoor live or motion picture theaters, and fitness centers or gymnasiums, and where food or beverages may be served as an accessory use, but does not include any use meeting the definition of Adult Entertainment, Auditorium or Civic Center, or Indoor Gun Range.

INDOOR GUN RANGE

An indoor area or facility designated or operated primarily for the use of firearms.

INDUSTRY, HEAVY⁵³⁵

An establishment involved in the manufacture, fabrication, processing, compounding, or assembling of materials from raw material or previously processed material, and that have severe potential for adversely affecting surrounding land uses due to potential environmental impacts related to noise, smoke/particulate emissions, vibration, noxious gases, odors, glare/heat, fire/explosion hazards and waste disposal including above ground storage of flammable, hazardous or poisonous gases, liquids, or materials. In addition, these uses may generate large amounts of truck or auto traffic, may involve the use of large unenclosed production areas, or may require large, tall structures that are unsightly. Heavy industrial uses typically involve primary production processes in the area of paper products (pulp mills), food processing (slaughterhouse, meat packing plant), chemicals (manufacture of inorganic chemicals, resins, plastics, paints, fertilizers, explosives, ink), petroleum products (refineries, bulk storage), primary metals (blasting, smelting, rolling), machinery and equipment manufacturer (auto assembly, engines, construction equipment), leather (storing, curing, tanning), gravel based products (manufacture of bricks, concrete, abrasives), lumber products (saw mills), solid waste disposal facility, and waste transfer facility.

⁵³² Text requiring compliance with the UDC deleted as a substantive regulation now covered in use-specific standards.

⁵³³ Revised to reflect the grouping of hotel and motel in uses. The last sentence was added.

⁵³⁴ Combines current Indoor Athletic Facility and Indoor Recreation from current 62.147.

⁵³⁵ Source: 62.146. Added "solid waste disposal facility, and waste transfer facility." Added "above ground storage of flammable, hazardous or poisonous gases, liquids, or materials" from the Day Care Facility use-specific standards limiting heavy industry by that use.

INDUSTRY, LIGHT⁵³⁶

An establishment involved in the processing, fabrication, assembly, or compounding of products where the process involved is relatively clean and nuisance-free, usually completely enclosed, and without adverse environmental effects, that can generally be made compatible with surrounding areas through buffering and through separation required by yard and height limitations. Typically, these uses result in the creation of finished products for sale on a wholesale basis to retailers or directly on a retail basis, and include uses in the following areas: lumber products (millwork, cabinet-making) textiles, printing and publishing services, bottling works, carpet and rug cleaning, furniture manufacture, paper (final processing from purchased bulk stock), rubber and plastics (compounding processed resins, molding plastics), gravel based products (pottery, cutting, finishing granite, firing and decorating clay products), and ice manufacturing.

INSTITUTIONAL PROPERTY

Land used by a nonprofit, religious or educational organization, such as a church, library, public or private school, hospital, or airport. Government owned or operated building, structure or land used for a public purpose shall not be considered institutional property.

INTENSIVE VEGETATION CLEARING

The complete removal of trees or shrubs in a contiguous patch, strip, row or block.

INTERIM USE⁵³⁷

A use approved by City Council for a specific period of time in anticipation of a different long-term use of the property being proposed or approved during that time.

INTERNAL PARKING LOT LANDSCAPE AREAS

Landscaped areas within a parking lot that are surrounded on at least three sides by paved areas that are used for parking and traffic circulation.

INTERSECTION

A place where two or more public or private streets cross at the same grade.

JUNKYARD⁵³⁸

All or part of a lot, parcel or land, building, or structure used for the storage, processing, or abandonment of wastepaper, rags, scrap metal, or other scrap of discarded goods, materials, or machinery, or two or more unregistered, inoperable motor vehicles.

LAND USE PLAN

The Land Use Plan for the Rochester Urban Service Area.

LANDFILL⁵³⁹

A permanent facility either publicly or privately owned and operated for the purpose of disposing solid waste.

⁵³⁶ Source: 62.146.

⁵³⁷ New.

⁵³⁸ Source: 62.146.

⁵³⁹ New.

LANDSCAPE AREA

Land set apart for the plantings of grass, shrubs, trees or similar living plants, or other ground surface treatment such as decorative rock, bark, or stone.

LANDSCAPE PLAN⁵⁴⁰

An integrated set of documents that may consist of both drawn and written materials describing bufferyards, landscaping, and screening to be installed on a lot or parcel.

LANDSCAPED ISLAND (IN A RIGHT-OF-WAY)

A grassed or landscaped area located within the limits of the roadway portion of a local or limited local street or access roadway, serving both traffic control and aesthetic purpose.

LIMITED ACCESS ROADWAY

A roadway, privately owned and maintained and established on an easement, providing joint right of access for up to four lots.

LOADING AREA

An off street space or berth on the same lot with a building or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and that abuts or is connected by means of a driveway to a street or alley.

LOT

The smallest unit of land division defined by plat or by metes and bounds description, that is not divided by a lot line, right of way, or other publicly owned land, and that does not include the right of way of any street upon which the lot abuts, even if ownership to such right of way lies with the owner of the lot.

LOT AREA

The area contained within the lot lines of a lot, excluding any right-of-way or private street.

LOT, CORNER

A lot abutting two or more streets at their intersection, or upon two parts of the same street forming an interior angle less than 135 degrees.

LOT DEPTH

The average horizontal distance between the front lot line and the rear lot line of a lot.

LOT LINE

A line of record bounding a lot that divides one lot from another lot or from a public or private street or any other public space. Where any portion of a lot extends onto a public right-of-way, the lot line shall be deemed to be the boundary of said right-of-way.

LOT, THROUGH

A lot that fronts upon two parallel or approximately parallel streets.

⁵⁴⁰ Definition revised to remove text requiring compliance with the UDC, which is a substantive standard that will be addressed in the landscaping Section during Installment 2.

LOT WIDTH

A horizontal distance measured between the side lot lines.

LOT LINE, FRONT⁵⁴¹

A lot line separating a lot from the predominant public or private street or roadway right-of-way abutting the property, as determined by the City.

LOT LINE, INTERIOR SIDE

A side lot line that separates a lot from another lot.

LOT LINE, REAR

On a rectangular lot other than a corner lot, the lot line opposite and most distant from the front lot line; on a corner lot, an interior lot line that is designated at the time of development. Triangular shaped lots whose lot width narrows when moving away from the front lot line have no rear lot line. The rear lot line(s) on irregular shaped lots with more than four lot lines are those interior lot lines that, when the endpoints of the line(s) are connected, create a line exceeding the width at the building line.

LOT LINE, SIDE

Any lot line other than a front or rear lot line.

LOT LINE, SIDE STREET⁵⁴²

A side lot line separating a lot from a secondary public or private street or roadway right-of-way abutting the property, as determined by the City

LOT OF RECORD

Any validly recorded lot that, at the time of its recording, complied with all applicable laws, ordinances, and regulations.

LOW DENSITY (RESIDENTIAL) DISTRICTS

The R-1, R-2, and R-2x zoning districts.

LUMBER YARD

An establishment engaged in the retail sale of building supplies and household equipment that is characterized by the presence of an outdoor storage area used for the keeping of building supplies such as lumber or masonry products.

MANAGED OPEN SPACE⁵⁴³

An area identified by easement or other mechanism that guarantees that the area will not be intentionally disturbed and that provides, at a minimum, for access by a public agency or a qualified land trust for purposes of monitoring the condition and maintaining the site.

⁵⁴¹ Definition revised to refer to the predominant street, rather than all streets, to avoid overlap with definition of Side Street Lot Line.

⁵⁴² Definition revised to refer to secondary street to avoid overlap with definition of Front Lot Line, and reference to private street removed, because lots can also front on a private street.

⁵⁴³ Source: Olmstead County Zoning Ordinance 9.22

MANUFACTURED HOME

A building, fabricated in an off-site facility for installation or assembly at the building site, transportable in one or more sections, that, in the traveling mode, is eight feet or more in width or 40 feet or more in length, or when erected is 320 or more square feet in size, and is built on a permanent chassis and designed to be used as a dwelling for one family, with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical system contained in the building, and that is certified as constructed in compliance with the “manufactured home building code” as established under Minnesota Statutes, Chapter 327.

MANUFACTURED HOME PARK⁵⁴⁴

A residential development on a site that consists of two or more spaces for the placement of manufactured homes for dwelling or sleeping purposes, regardless of whether or not a fee is charged for the use of such space. This development is typified by a land-lease arrangement between the residents of the manufactured homes in the community and a single ownership entity or common owner(s) in a cooperative arrangement as opposed to a development that consists of individually owned lots subdivided for the placement of manufactured homes. A manufactured home park does not include real property used for the display and sale of manufactured homes, unless the manufactured homes for display or sale are permanently sited in conformance with the UDC as model homes in the park, nor does it include a Campground or Recreational Vehicle Park in which spaces are not intended for long-term occupancy.

MANUFACTURED HOME PARK LOT

A parcel of land in a manufactured home park used for the placement of a single manufactured home for the exclusive use of the residents of the manufactured home. The area of the lot for rezoning purposes shall not include any common or community open space or required perimeter bufferyard area. The area of the lot shall not include any land devoted to the development of streets (public or private) including the required boulevard and any land used for common sidewalk or walkway area located parallel and adjacent to a private street lying adjacent to the lot.

MANUFACTURED HOME SUBDIVISION

A development that consists of individually owned lots created for the placement of manufactured homes that complies with this jurisdiction's regulations for subdivision. All uses, buildings, and structures within the approved subdivision must obtain zoning certificate approval prior to their placement or construction.

MEDICAL FACILITY⁵⁴⁵

An establishment engaged in providing diagnostic services, extensive medical treatment (including surgical services) and other hospital services, as well as continuous nursing service, including general medical and surgical hospitals, specialty hospitals, medical laboratories, bio medical research and development, outpatient care facilities, medical schools and associated dormitories, medical appliance sales, and similar uses, but not including a Clinic or Veterinary and Animal Services.

⁵⁴⁴ Definition revised to replace exception of non-year-round occupancy with exception for Campground or RV Park.

⁵⁴⁵ Source: 62.141.

MEDICAL STAY DWELLING UNIT⁵⁴⁶

A dwelling unit that has been issued a lodging license from the State or from Olmstead County and in which accommodations are furnished exclusively to medical patients, their families, and caregivers while the patient is receiving or waiting to receive health care treatments or procedures for a period of one week or more, and where no supportive services, health supervision, or home care services are provided.

MIXED BUILDING TYPE DEVELOPMENT

A development that complies with this jurisdiction's regulations for subdivisions, consisting of three or more individually owned lots for either the placement of manufactured homes, subject to the design criteria contained herein, or for the placement of other dwelling types consistent with the standards of the underlying zoning district.

MOBILE HOME⁵⁴⁷

A non-HUD compliant structure built prior to June 15, 1976, on a permanent chassis, capable of being transported in one or more sections and designed to be used with or without a permanent foundation as a dwelling when connected to on-site utilities, but not including manufactured homes or recreational vehicles. Mobile homes are not permitted in the City of Rochester.

MODULATION (OF A BUILDING FAÇADE)

A stepping back or projecting forward of portions of a building face within specified intervals of building width and depth, as a means of breaking up the apparent bulk of a structure's continuous exterior walls.

MOTOR FREIGHT AND WAREHOUSING⁵⁴⁸

An establishment engaged primarily in either the storage or shipment of goods and materials, including terminal facilities for handling freight, and maintenance facilities in which the truck (including tractor trailer units) involved with the operation of the business are stored, parked, and serviced. Materials within a warehouse or terminal facility may be combined, broken down, or aggregated for transshipment or storage purposes where the original material is not chemically or physically changed. Above ground storage of flammable, hazardous or poisonous gases, liquids, or materials is not included in this definition (see Heavy Industry).

MOTOR VEHICLE SALES, LEASING, OR STORAGE⁵⁴⁹

An establishment engaged in the display for sale or lease of automobiles, trucks, farm machinery, recreational vehicles, and manufactured homes, including auto dealerships or the commercial storage of privately owned trailers, boats, campers, or similar vehicle.

MUNTIN⁵⁵⁰

A bar or rigid supporting strip between adjacent panes of glass.

⁵⁴⁶ Source: 62.141.

⁵⁴⁷ The definition was changed from a reference to manufactured homes to comply with HUD standards.

⁵⁴⁸ Source: 62.145. Last sentence added.

⁵⁴⁹ Source: 62.144.

⁵⁵⁰ New.

NEIGHBORHOOD FOOD AND SERVICE⁵⁵¹

An establishment containing not more than 2,000 square feet of gross floor area, and intended to serve the local neighborhood, whose primary business is the sale of food and/or non-alcoholic beverages including a standard restaurant, bakery, coffee house, ice cream parlor, deli, grocery, or similar use.

NEIGHBORHOOD PARK⁵⁵²

A public recreation facility designed to give residents of one or more neighborhoods the opportunity for the enjoyment of open space, and that may also provide for the use of the residents playground equipment, picnic areas, and areas suitable for use as ball fields, tennis, and basketball courts, and skating rinks. Trail corridors providing access from residential areas to neighborhood park facilities may be considered part of the neighborhood park.

NONCONFORMING APPEARANCE⁵⁵³

Any conforming use located on a lot that is zoned nonresidential, abuts a lot in a residential district, in existence at the time this UDC was adopted, and that does not meet the appearance control standards of this UDC.

NONCONFORMING LOT OF RECORD⁵⁵⁴

Any validly recorded lot existing at the time this UDC was adopted that does not comply with the minimum lot area or frontage requirements of the district where it is located.

NONCONFORMING PARKING⁵⁵⁵

Any development that does not provide the number of off street parking spaces that would be required by this UDC for a new development of the same type. The existence of parking spaces located outside of an approved driveway in the front or side street side yard on a property in a residential district that were not approved through a lot and site development approval procedure do not constitute legal, nonconforming parking.

NONCONFORMING SIGN⁵⁵⁶

Any sign established prior to the effective date of this UDC that is not in full compliance with the UDC.

NONCONFORMING STRUCTURE⁵⁵⁷

A structure that does not comply with the height, setback, density, or floor area ratio requirements of the district where it is located including structures that do not comply with the flood proofing and elevation regulations of the flood plain overlay districts.

⁵⁵¹ Source: 62.143.

⁵⁵² Source: 64.430. Exclusion of lighted sports fields was deleted; that is a substantive regulation that should appear as a use-specific standard. Modified for best practices.

⁵⁵³ Source: 65.110.

⁵⁵⁴ Source: 65.110.

⁵⁵⁵ Source: 65.110.

⁵⁵⁶ Source: 65.110.

⁵⁵⁷ Source: 65.110.

NONCONFORMING USE⁵⁵⁸

An activity using land or structures that would not be permitted to be established as a new use in the zone where it is located by the regulations of this UDC.

NURSERY

Land or greenhouses used to raise flowers, shrubs and plants for later retail or wholesale sales.

NURSING HOME⁵⁵⁹

An establishment primarily engaged in providing intermediate or long-term nursing and health related care to individuals.

OCCUPANCY

The residing of an individual overnight in a habitable unit, or the installation, storage or use of equipment, merchandise, or machinery in any institutional, commercial, or industrial building.

OFFENDER TRANSITIONAL HOUSING

A dwelling unit or one or more habitable units in a rooming house or hotel designed, intended, or used principally to provide short-term housing to offenders on supervised release or conditional release who are receiving housing assistance from the Minnesota Department of Corrections or Olmsted County Community Corrections and/or who are required to live in the housing as a condition of their release. "Offender Transitional Housing" does not include housing declared by state law to be a permitted single family residential use. The term "short-term" shall mean a period of time not exceeding one year. A dwelling or lodging facility owned by the offender or a member of the offender's immediate family shall not be considered Offender Transitional Housing.

OFFICE⁵⁶⁰

A room or group of rooms used for managing the affairs of an establishment or for the non-retail, non-production conduct of affairs of a service, professional institutional, or business nature including medical offices or clinics, studios for those involved in art, sculpture, and music including organizations operating on a membership basis for the promotion of the interests of the membership, including trade associations, business associations, professional membership organizations, labor unions, or civic or fraternal organizations, but not including churches, hospitals, golf and country clubs, or credit unions..

ON-SITE OR OFF-SITE PUBLIC OR PRIVATE FACILITY IMPROVEMENT⁵⁶¹

The sizing, grading, location or improvement of lots, structures, areas accessible to the general public, streets, roads, trails, walkways, curbs and gutters, water, sewers, storm drainage, lighting, sewers, electricity, gas and other utilities, and the protection and conservation of flood plains, shore lands, soils, water, vegetation, energy, air quality, and geologic and ecologic features, and similar on-site or off-site public or private utilities and improvements that are reasonably related to the proposed subdivision and that are needed so that the facilities can adequately handle the needs created by the proposed subdivision. The term includes "required improvements," "on-site and off-

⁵⁵⁸ Source: 65.110.

⁵⁵⁹ Source: 62.143. Renamed from Nursing and Personal Care Facility.

⁵⁶⁰ Expanded to incorporate the current definition of Membership Organization from 62.143.

⁵⁶¹ This definition may be revised as a part of Installment 3.

site public improvements,” “development improvements,” “off-site improvements” and “public improvements.”

OPERATIONS PLAN (FOR EXCAVATION ACTIVITIES)

A plan, including a Site Plan and Report, required to be submitted by applicants for conditional use permit approval of excavation activities that describes the area to be disturbed, required bufferyards and additional information necessary to ensure the excavation activity is safe on the particular site and is compatible with surrounding development and land uses.

OUTDOOR COMMUNITY INFORMATION AND PUBLIC EVENTS SCREEN

A screen mounted to the exterior of a building for the purposes of broadcasts or displays primarily of music, concerts, movies, meetings, sports events, political events, social events, government events, other programs of local consumer or social interest, public service messages, or other programs that benefit the public’s interests that are free of charge. An Outdoor Community Information and Public Events Screen may broadcast or display advertising so long as such advertising is clearly incidental to the primary community programming.

OUTDOOR EATING AREA⁵⁶²

Any group of tables, chairs, or other seating fixtures and appurtenances intended for the outdoor consumption of food or beverage by patrons, employees, or tenants, when such is located adjacent to a establishment having the same operator.

OUTDOOR ENTERTAINMENT OR RECREATION⁵⁶³

A commercial recreation facility that is primarily an open air facility, such as baseball fields, swimming pools, skating rinks, golf driving ranges, miniature golf facilities, drive-in theaters, amphitheaters, outdoor concert halls, racetracks, ranges (skeet, rifle, or archery), bowling alleys, and amusement parks.

OUTDOOR STORAGE

The keeping, in an unroofed area or structure open to view on its sides, of any goods, junk, material or merchandise in the same place for more than 24 hours and including adjacent land area improved and necessary to provide access to such goods.

PARAPET

An extension of the main walls of a building above the roof line.

PARKING BAY

A portion of a site improved for the off-street parking of vehicles, where individual parking spaces are accessed directly from the street. Parking space shall not be from within the right-of-way.

⁵⁶² New.

⁵⁶³ Source: 62.147. Combines Restricted Recreation and Outdoor Entertainment definitions. Racetracks, ranges (skeet, rifle, or archery), bowling alleys, and amusement parks added.

PARKING LOT⁵⁶⁴

A surface area whose purpose is to provide accessory or primary use parking spaces for motor vehicles, this category also includes community lots that are established to meet the parking needs in a residential area.

PARKING STRUCTURE⁵⁶⁵

Any aboveground or belowground structure, either freestanding or constructed as part of a building with a non-parking primary use, whose purpose is to provide accessory or primary use parking spaces for motor vehicles. In the MX-T district a permitted parking facility associated with a City designated park and ride may provide automobile maintenance services, such as oil changes and car washes, as an accessory use.

PASTURE

An area where grass or other growing plants are used for grazing and where the concentration of animals is such that a vegetative cover is maintained during the growing season, except in the immediate vicinity of temporary supplemental feeding or watering devices.

PAVEMENT

A hard, smooth surface of a parking lot, driveway or drive aisle that is made from concrete, asphalt or a paving brick, or similar durable permanent permeable pavement.

PEDESTRIAN

A person moving about by foot or using a wheelchair or other mobility aid other than a motor vehicle.

PERIMETER

The boundaries or borders of a lot, tract, or parcel of land, or the total combined length of all those boundaries or borders

PHOTOVOLTAIC DEVICE

A system of components that generates electricity from incident sunlight by means of the photovoltaic effect, whether or not the device is able to store the energy produced for later use.

PILASTER

A rectangular, non-bearing column attached to a building facade as an ornamental design feature

PLAT, FINAL⁵⁶⁶

The final map on which a developer's plan for the division of land for purposes of development is presented to the City for approval and that, if approved, will be submitted to the County Recorder.

⁵⁶⁴ Current Parking Facility use has been divided into Parking Structures and Parking Lot in order to allow greater control over vehicle-oriented uses. Both definitions have been expanded to apply to both primary use and accessory parking, and to both residential and non-residential land uses.

⁵⁶⁵ Source: 62.145. This definition does not carry forward the proper definition found in 60.200 (besides the provision related to the TOD district).

⁵⁶⁶ Definition revised for clarity.

PLAT, PRELIMINARY⁵⁶⁷

A draft map on which a developer's plan for the division of land for purposes of development is presented to the City for review and comment regarding compliance with this UDC and other standards and regulations adopted by the City, prior to submittal of a Final Plat for approval.

PLACE OF WORSHIP⁵⁶⁸

A building or structure, or groups of buildings or structures, that by design and construction are primarily intended for the conducting of organized religious services and associated accessory uses.

PLAYGROUND

All play areas designed primarily for children including, but not limited to, an outdoor area set aside for recreation and play containing playground equipment, such as climbing toys, seesaws, and swings.

PROPERTY OWNER

The fee owner of land, or the beneficial owner of land whose interest is primarily one of possession and enjoyment in contemplation of ultimate ownership. The term includes but is not limited to vendors under a contract for deed.

PUBLIC PARK⁵⁶⁹

Land dedicated to the city for recreational use by the public-at-large. A Community Center use within a public park is considered part of the Public Park.

PUBLIC TRANSPORTATION DISPATCH FACILITY⁵⁷⁰

An establishment primarily engaged in furnishing local and suburban passenger transportation, including taxi cabs, passenger charter services, school buses, and terminals (including service facilities) for motor vehicle passenger transportation.

PUBLIC UTILITY⁵⁷¹

Any corporation or government entity supplying natural gas, electric, transportation, water, sewer, or communication service to the general public. For the purposes of this UDC, wireless telecommunication utilities shall not be considered a Public Utility and are defined separately.

PUBLIC WATERS

Those waters defined by Minnesota Statutes 103G.

QUARRY⁵⁷²

A development activity that meets or exceeds any of the following thresholds and exceeds practices allowed through a minor grading permit:

1. Activities principally designed to mine, extract, or remove bedrock materials for commercial purposes;

⁵⁶⁷ New definition. Confirmation that this is accurate, and whether Minnesota uses the term Preliminary Plan or Preliminary Plat is required.

⁵⁶⁸ Name changed from Church.

⁵⁶⁹ New.

⁵⁷⁰ Source: 62.145.

⁵⁷¹ Updated for consistency. Updated for clarity.

⁵⁷² Source: 62.1101.

2. An exposed bedrock slope steeper than 3:1 that is over 25 feet in height occurring at any time during or following excavation;
3. The temporary or permanent exposure of rock face made as part of or following excavation in excess of 25 feet in height. The measurement of height of the exposed rock face shall be the vertical measurement from the lowest elevation of the excavation to the top of the exposed face. Multiple faces shall be added together to determine height;
4. Removal from a site of more than 20,000 cubic yards of earth material per acre of land being excavated or 100,000 cubic yards of earth for the entire site;
5. An excavation activity utilizing a crusher; or
6. A substantial land alteration (see definition in this Chapter) meeting any of the above characteristics.

RAILROAD TRANSPORTATION⁵⁷³

Establishments engaged in domestic freight and passenger transportation by rail including railroad yards, freight stations and switching yards.

REACH

A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings is typically constitute a reach.

RECLAMATION PLAN

A plan, including a Final Site Plan and Report, required to be submitted by applicants for conditional use permit approval of excavation activities that describes how the site will be reclaimed for subsequent use after conclusion of the excavation activity.

RECREATIONAL EQUIPMENT

Craft designed for use on water or snow, as well as motorized vehicles designed for use on surfaces other than public roadways, and including trailers used to transport such craft or vehicles.

RECREATIONAL VEHICLE

A temporary structure, less than 40 feet in length, that can be towed, hauled or driven and is primarily designed as temporary housing accommodations for recreational, camping or travel use including but not limited to travel trailers, truck campers, camping trailers and self-propelled motor homes.

RECREATIONAL VEHICLE PARKING⁵⁷⁴

Storage of recreational vehicles at a residence as an accessory to the primary use of the property.

RECYCLING DROP BOX⁵⁷⁵

A small collection facility typically treated as an accessory to another primary use where recyclable materials are accepted from the public.

⁵⁷³ Source: 62.145.

⁵⁷⁴ New.

⁵⁷⁵ New.

RECYCLING TRANSFER FACILITY⁵⁷⁶

A primary use of a lot or parcel of land for the separation and temporary storage of recycled or used materials before they are sent to a processing facility. Recycling Transfer Facility includes the operation of and expansion of any waste-to-energy facility in existence on the effective date of this UDC and the establishment of new facilities in support of waste-to-energy operations after the effective date of this UDC.

RELATED SERVICE FACILITY⁵⁷⁷

A type of accessory use designed primarily to serve the occupants or patrons of another primary use in the same building or development including but not limited to snack bars, restaurants, cafeterias, and other eating establishments; barbershops, beauty shops, gift shops, newsstands, office supply sales, duplicating services, and similar retail stores and services; swimming pools, tennis courts, playgrounds, playfields, meeting rooms, exercise rooms, saunas, gymnasiums, and similar recreational facilities; dispensaries and similar health care facilities; and self service laundry and dry cleaning drop off facilities, but not including adult entertainment or any use that is already listed as permitted or conditional use in the same zone district. The Related Service facility shall be accessory to a primary use that provides living facilities, employment, or overnight accommodations for a significant number of persons, such as a multifamily dwelling, office or institutional building, manufacturing plant or research facility, or hotel.

REPAIR AND MAINTENANCE SHOP⁵⁷⁸

An establishment engaged in miscellaneous repair services, primarily of products generally weighing more than 25 pounds such as televisions, washers and dryers, furniture (including re-upholstery), small engines, or other equipment.

RESEARCH AND TESTING⁵⁷⁹

An establishment or other facility for carrying on investigation in the natural or physical sciences, or engineering and development as an extension of investigation with the objective of creating end products, on a contract or fee basis, and including pilot plant operation.

RESIDENCE FOR CARETAKER OR SECURITY GUARD⁵⁸⁰

One accessory dwelling unit or manufactured home for a caretaker, owner, operator, manager, or Security Guard and their related family that is located on the premises of another primary use for the occupancy of a caretaker, security guard, or other person charged with oversight or protection of the primary use.

RESIDENTIAL CARE FACILITY⁵⁸¹

A public or private establishment licensed by the State of Minnesota, Commissioner of Human Services or Commissioner of Health, that for gain or otherwise, regularly provides one or more children, or one or more adults meeting the definition of “adult” in Minn. Stat §245A.02, Subd. 2 with 24 hour care, food, lodging, training, education, supervision, rehabilitation, or treatment, and

⁵⁷⁶ New. Waste-to-energy reference allows current operations from the County without making non-conforming.

⁵⁷⁷ Source: 62.278. Revised for clarity.

⁵⁷⁸ Source: 62.143. Revised to cover goods generally weighing more than 25 pounds and to include non-household goods.

⁵⁷⁹ Source: 62.146.

⁵⁸⁰ New.

⁵⁸¹ Last clause added to simplify compliance with the Fair Housing Act. The City Attorney should review this change.

including all facilities providing lodging to persons whose right to live together as a household is protected by the federal Fair Housing Amendments Act as amended and interpreted by the courts.

RESIDENTIAL FLOOR

A story within a building in which over 50 percent of the floor area is devoted to dwelling units.

RESIDENTIAL MANAGEMENT OR SALES OFFICE⁵⁸²

A facility in a residential development that serves as a headquarters for sales and management of dwelling units within the development.

RETAIL ESTABLISHMENT⁵⁸³

An establishment engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods, including furniture and appliance sales and business centers. These establishments are characterized by the following: 1) They buy and receive as well as sell merchandise; 2) They may process some products, but such processing is incidental or subordinate to the selling activities; and 3) They predominantly sell to customers for their own personal or household use.

RETAIL, NEIGHBORHOOD⁵⁸⁴

A retail establishment that is under 2,000 square feet gross floor area.

RETAIL, SMALL⁵⁸⁵

A retail establishment that is under 5,000 square feet gross floor area.

RETAIL, MEDIUM

A retail establishment that is under 25,000 square feet gross floor area.

RETAIL, LARGE

A retail establishment that is over 25,000 square feet gross floor area.

RIGHT OF ACCESS

The legal authority providing for the right of ingress to or egress from a public street.

RIGHT-OF-WAY

A strip of land acquired by dedication, reservation, prescription, or condemnation occupied or intended to be occupied by a road, crosswalk, utility line, railroad, electric transmission line, streetscape improvements, street furniture, or other similar use.

RIGHT-OF-WAY LINE

The lines that form the boundaries of a right-of-way.

⁵⁸² New.

⁵⁸³ Source: 62.144. Renamed from Retail Trade. Added “including furniture and appliance sales, business centers.” The four sub-categories of retail were added to reflect the scale of retail establishments.

⁵⁸⁴ Source: 62.144. Modified definition to align with the new retail approach.

⁵⁸⁵ Source: 62.144. Revised to delete reference to sales of fuels and to align with new retail approach. Convenience retail is now listed as an accessory use to the sale of fuels, rather than the other way around.

ROAD AUTHORITY

The unit of government having control of the right of access to a right-of-way.

ROADWAY

That portion of a street, common area or easement area improved for utilization by motor vehicles, including travel lanes and parking lanes, but not including driveways.

ROOMING HOUSE

A building designed as a one family detached dwelling, containing habitable units providing sleeping and/or living accommodations but not eating or cooking accommodations, for three or more individuals who are not members of the owner's or operator's related family. Meals may or may not be provided as part of the services included for compensation.

SAND OR GRAVEL EXCAVATION⁵⁸⁶

An excavation or unconsolidated sediments including gravel, sand, or peat that meets or exceeds any of the following thresholds and exceeds practices allowed through a minor grading permit:

1. Activities principally designed to mine, extract, or remove unconsolidated sediments for commercial purposes;
2. Removal from the site of more than 20,000 cubic yards of unconsolidated sediments per acre of land being excavated or more than 100,000 cubic yards from a single site; or
3. A substantial land alteration (see definition in this Chapter) designed to occur for more than 48 months.

SCHOOL

A public school as defined in Minnesota Statutes, Section 120.05, or a nonpublic school as defined in Minnesota Statute 123.932.

SEASONAL SALES⁵⁸⁷

A building or structure used for the retail sales of Christmas trees, holiday décor and seasonal gifts, fresh fruits, vegetables, flowers, herbs, or plants. Such use may also involve the accessory sales of other unprocessed foodstuffs, home processed food products such as jams, jellies, pickles, sauces or baked goods, and homemade handicrafts. No commercially packaged handicrafts or commercially processed or packaged foodstuffs shall be sold. Such uses also include “pick your own” establishments where customers gather their own produce from the fields for purchase and off-site consumption.

SEDIMENTATION

Sedimentation shall mean the settling out of soil particles that have been transported by water or wind. (Sedimentation occurs when the velocity of water or wind in which soil particles are suspended is slowed to a sufficient degree and for a sufficient period of time to allow the particles to settle out of suspension or when the degree of slope is lessened to achieve the same result).

⁵⁸⁶ Source: 62.1101.

⁵⁸⁷ New.

SELF SERVICE STORAGE FACILITY

An establishment designed and used for the purpose of renting or leasing individual storage spaces to tenants who have sole private access to such space for storing personal property.

SEMIPUBLIC USE

The use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

SENSITIVE RESOURCE MANAGEMENT

The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.

SETBACK

The minimum separation in linear feet, measured on a horizontal plane, required between the wall of a building and each of its lot lines at a given height.

SETBACK PLANE

A theoretical plane extending over the lot and inclined upward from the horizontal by a designated number of degrees and intersecting with the ground at the lot line.

SHELTER, STORM

A structure or portion of a structure intended to provide protection to human life during periods of danger to human life from nuclear fallout, blasts, air raids, storms, or other emergencies.

SHOOTING RANGE OR GUN RANGE

An area or facility designated or operated primarily for the use of firearms.

SHORE IMPACT ZONE

Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback.

SHORELAND

Land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond, or flowage; and 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides that extend landward from the waters for lesser distances and when approved by the Commissioner of Natural Resources.

SIGN-RELATED DEFINITIONS⁵⁸⁸

When used in the context of regulating signs, the following terms shall have the definitions shown below.

⁵⁸⁸ This section carries forward the current LDM sign definitions. These definitions will be reviewed and will very likely be significantly revised to ensure the removal of content-based text when the sign-regulations are addressed in Installment 2.

SIGN

Any object, device, display, structure or part thereof, situated outdoors or indoors, that is displayed to attract the attention of the public while on public streets, highways or walkways to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters figures, designs, symbols, fixtures, colors, illumination or projected images. Signs do not include flags of any nation, state, city, religion, fraternal or civic organization, merchandise and pictures or models of products or services incorporated in a window display, works of art that in no way identify a product, scoreboards on athletic fields, sound trucks or other moving advertising media while operated on a public right-of-way, official traffic signs or symbols, banners announcing civic celebrations or events of special interest, mounted house numbers under 12 inches in height, mounted name plates or building address numbers under six square feet in area identifying the occupants or address of a building, or address or public information signs displayed for the convenience of the traveling public, when established by a public patterns that by themselves would not convey a message about a business or product without other sign elements present.

SIGN, ADVERTISING

A sign, other than a sponsorship sign, that directs attention to a business service, event or location not related to or on the premises where the sign is located. An Outdoor Community Information and Public Events Screen is not an advertising sign when it is operated pursuant to the provisions of [\[insert x-ref in later installment\]](#).

SIGN, BUSINESS

A sign that directs attention to a business or profession conducted, or to a commodity or service sold, offered, or manufactured, or to an entertainment offered, on the premises where the sign is located.

SIGN CREDIT

A benefit granting the holder of the credit the right to erect a new advertising sign that conforms with all applicable laws upon the furnishing of proof to the Community Development Director that an existing legal nonconforming advertising sign and its supporting structure have been removed.

SIGN, POLITICAL CAMPAIGN

A sign that carries a noncommercial message regarding a candidate for political office or an issue arising in a campaign for political office.

SIGN, SPONSORSHIP

A sign that identifies a business name, logo, and/or corporate slogan displayed at the site of an educational or governmental facility that identifies a sponsor in recognition of the sponsor's financial support of an educational or governmental facility. The display of other information including, but not limited to, identifying a product, service or business location, or the use of a neon light, a flashing, moving or intermittent light or a changeable message disqualifies the sign as a sponsorship sign. Any lighting of the sign must comply with the dark sky standards.

SIGN, STACKED MULTIPLE DISPLAY FACES

A sign structure containing signs that are placed in a vertical or horizontal row and that contain more than one sign designed to provide information to the public.

SITE

Any lot or parcel or combination of lots or parcels assembled for the purpose of development.

SITE AREA⁵⁸⁹

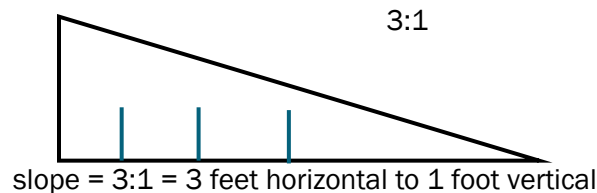
All land area within the site as defined in the deed. Area shall be from an actual site survey rather than from a deed description.

SITE PLAN

An integral set of documents that may consist of both drawn and written materials whose purpose is to provide the necessary information needed for an approving authority to decide whether the proposed development will comply with the UDC standards.

SLOPE

An incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude.



SOCIAL SERVICES⁵⁹⁰

An establishment that provides social or welfare services to those in need, for no fee or compensation, or at a fee recognized as being significantly less than charged by profit-making organizations. Services may include but are not limited to information and referral services, counselling, skill development, aid through the provision of food or clothing, life skill and personal development programs, alcohol, drug, or substance abuse counselling center, and drop-in or activity space.

SOIL EROSION

The removal and/or loss of soil by the action of water, ice, gravity, or wind, including both the detachment and transport of soil particles.

SOLAR COLLECTOR, GROUND- OR BUILDING-MOUNTED⁵⁹¹

A photovoltaic (PV) panel, array of panels or other solar energy device, the primary purpose of which is to provide for the collection, inversion, storage, and distribution of solar energy for electricity generation, space heating, space cooling, or water heating. Ground-Mounted Solar Collector may be

⁵⁸⁹ Further discussion is required. Many cities use this term in a less technical way to refer to all contiguous lots or properties included in a development application.

⁵⁹⁰ New.

⁵⁹¹ Replaces Solar Energy System and creates a clearer distinction for accessory and principal uses.

a principal or accessory use. Building-Mounted Solar Collector is an accessory use. Building-Mounted Solar Collector includes agrivoltic systems and parking canopy solar systems.

SPECIALIZED EDUCATION⁵⁹²

An establishment engaged in furnishing specialized academic or technical courses, normally on a fee basis, such as vocational or correspondence schools, barber college, data processing schools or secretarial schools, along with non-degree granting schools such as post-secondary colleges and universities, martial arts, music, art, ceramic, dramatic, charm schools, and dance instruction, and that does not meet the definition of a College or University or School.

SPECIFIED ANATOMICAL AREAS

Anatomical areas consisting of:

1. Less than completely and opaquely covered human genitals, pubic region, buttock, anus, or female breast(s) below a point immediately above the top of the areola; and
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES

Activities consisting of the following:

1. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphis, zooerasty; or
2. Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence; or
3. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation; or
4. Fondling or touching of nude human genitals, pubic region, buttocks, or female breasts; or
5. Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any such persons; or
6. Erotic or lewd touching, fondling, or other sexually oriented contact with an animal by a human being; or
7. Human excretion, urination, menstruation, vaginal or anal irrigation.

STANDARD RESTAURANT⁵⁹³

An establishment whose primary business is the sale of food and/or beverage to customers in a ready to consume state, and whose principal method of operation includes one or both of the following characteristics:

1. Customers, are served their food and beverage by restaurant employees at the same table or counter where the food and/or beverage are consumed; and/or

⁵⁹² Source: 62.143. Renamed from Educational Services.

⁵⁹³ Source: 62.143.

-
2. A cafeteria type operation where food and beverage generally are consumed within the restaurant building.

STEEP SLOPE

Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this UDC. Where specific information is not available, steep slopes are lands having average slopes over 12 percent over horizontal distances of 50 feet or more, that are not bluffs.

STORAGE CONTAINER⁵⁹⁴

An all-metal structure, or made of other construction materials, fully enclosed, used for storage purposes, and not part of a primary building. Storage containers are individual units that are periodically removed from a property by truck and are considered a structure without any attached foundation or footings. A storage container may be a self-contained unit that includes wheels and is licensed as a vehicle or a unit that must be trucked to a site and removed from the trailer used for transport. This definition excludes warming sheds at city parks and schools, prefabricated sheds typically used for household, garden, or hobby storage, dumpsters, or roll off containers that are used for the collection of solid waste. Storage containers are also referred to as cargo containers, temporary storage containers, portable storage containers, containerized storage devices, semi-trailers, or truck-trailers.

STORMWATER MANAGEMENT PLAN⁵⁹⁵

An engineering analysis that describes the effect of development on an existing landscape and the mitigation necessary to meet applicable ordinances, regulations, and standards related to water quality, conveyance, and flooding.

STORY (OF A BUILDING)

That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a usable or unused under floor space is more than six feet above grade for more than 50 of the total perimeter or is more than 12 feet above grade at any point, such usable or unused under floor space shall be considered as a story.

STORY, FIRST (OF A BUILDING)

The lowest story in a building that qualifies as a story, as defined herein, except that a floor level in a building having only one floor level shall be classified as a first story, provided such floor level is not more than four feet below grade for more than 50 percent of the total perimeter, or not more than 8 feet below grade at any point.

⁵⁹⁴ Added additional language on the shed exclusion.

⁵⁹⁵ Name changed from 'Drainage Plan.' Definition updated to align with Staff recommendations.

STREET

A strip of land used or intended to be used for the passage or travel of motor vehicles, non-motorized vehicles, and pedestrians, including roadway, boulevard, medians, islands, paths, sidewalks, and related facilities.

STREET, PRIVATE

A street owned and maintained by one or more private property owners.

STREET, PUBLIC⁵⁹⁶

A street established on a right-of-way that has been dedicated for public use.

STRUCTURAL ALTERATION (OF A BUILDING)

Any change in the supporting members of a building, such as the bearing walls, beams or girders, or any change in the dimension or configuration of the roof or exterior walls.

STRUCTURE

A combination of materials to form construction for use, occupancy, or ornamentation, whether installed on, above or below the surface of land or water.

STRUCTURE, TEMPORARY

A building or structure without foundation or footings that is designed to be transportable and that is not designed for attachment to the ground, to another structure, or to any utility system on the same premises for an undetermined length of time.

SUBDIVISION

The separation of an area, parcel or tract of land into two or more parcels, tracts, lots, or into long term leasehold interests where the creation of the leasehold interests necessitates the creation of streets, roads or alleys, for residential, commercial, industrial or any other use or any combination thereof, except for those subdivisions exempted by Minnesota Statute 462.352 (sub. 12).

SUBSTANTIAL LAND ALTERATION⁵⁹⁷

A development activity that meets or exceeds any of the following thresholds and exceeds practices allowed through a minor grading permit:

1. Grading activities designed to occur for more than 24 months and less than 48 months;
2. The removal from a site of more than 10,000 gross cubic yards of earth material per acre and less than 20,000 gross cubic yards of earth material per acre;
3. An exposed bedrock slope steeper than 3:1 that is over ten feet and less than 25 feet in height occurring at any time during or following excavation;
4. A movement of 500 cubic yards or more of earth that involves a change in natural or pre-existing grades of ten or more vertical feet for any portion of a parcel; or
5. Any movement of earth on the entire parcel in excess of 100,000 cubic yards.

⁵⁹⁶ Text revised for clarity.

⁵⁹⁷ Source: 62.1101.

SURFACE WATER ORIENTED COMMERCIAL USE

The use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conduct of business. Marinas, resorts, and restaurants with transient docking facilities are examples of such use.

SWIMMING POOL

A private recreational pool, pond, lake, or open tank not located within a completely enclosed building and capable of containing water to a depth at any point greater than 24 inches.

SWIMMING POOL, ABOVE GROUND

A swimming pool whose exposed sides have a height of four feet or greater above the natural ground located adjacent to said swimming pool.

SWIMMING POOL, IN-GROUND

A swimming pool whose sides are not exposed and are below the natural ground located adjacent to said swimming pool.

SWIMMING POOL, SURFACE

A swimming pool whose exposed sides have a height of more than 24 inches, but less than four feet above the natural ground located adjacent to said swimming pool.

TATTOO OR PIERCING PARLOR⁵⁹⁸

An establishment whose primary business activity is the practice of one or more of the following:

1. The placement of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin;
2. Creation of an opening in the body of a person for the purpose of inserting jewelry or other decoration.

TELECOMMUNICATIONS-RELATED DEFINITIONS

When used in the context of regulating telecommunications, the following terms shall have the definitions shown below.

COMMERCIAL WIRELESS TELECOMMUNICATIONS SERVICE (CWTS) ⁵⁹⁹

A facility that transmits and/or receives signals or waves radiated or captured by a wireless telecommunications antenna. It may include: antennas of all kinds including microwave dishes, horns, and other types of equipment for the transmission or reception of such signals, telecommunications tower or similar structures supporting said equipment, equipment buildings or cabinets, parking area, and/or other accessory development in order to provide telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging and similar services that are marketed to the general public. Non-commercial or broadcasting antennas are not considered to be wireless telecommunications utilities.

⁵⁹⁸ New.

⁵⁹⁹ New. Combined with Commercial Wireless Telecommunications Services.

CWTS, CO-LOCATED ON EXISTING STRUCTURE⁶⁰⁰

A CWTS located on the same structure as other CWTS, including a public utility structure, for mounting wireless telecommunications antennas by more than one provider of wireless telecommunications services.

CWTS, FREESTANDING⁶⁰¹

A CWTS that consists of a standalone support structure, antennas, and associated equipment. The support structure may be a wooden pole, steel monopole, lattice tower, or similar structure.

CWTS, STEALTH ON EXISTING STRUCTURE⁶⁰²

A CWTS that is aesthetically integrated or otherwise consistent with surrounding existing buildings, structures, and landscaping, including height, color, style, massing, placement, design, and shape, and that does not visually stand out as a CWTS.

EQUIPMENT STRUCTURE OR CABINET

A cabinet, structure or building that houses telecommunications and related electrical equipment used by wireless telecommunications services.

SMALL-CELL CWTS⁶⁰³

A CWTS that is designed to act as a booster site that provides increased localized network capacity. A small-cell CWTS has three or fewer antennas, no greater than four feet long each, and does not exceed 35 feet in height for a freestanding small-cell CWTS, and includes associated equipment cabinet(s).

WIRELESS TELECOMMUNICATIONS ANTENNA⁶⁰⁴

A component of a CWTS. Any exterior transmitting or receiving device that may be mounted on a tower, building, or structure and used in communications that radiates or captures electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), or other commercial signals. It includes, but is not limited to, directional antennas (such as panels, microwave dishes, and satellite dishes) and omni-directional antennas (such as whips), but not including a communications tower.

WIRELESS TELECOMMUNICATIONS TOWER⁶⁰⁵

A component of a CWTS. A structure intended to support wireless telecommunications antennas. Examples of such structures include, but are not limited to, freestanding poles (such as monopoles, masts, poles, or guyed towers) and lattice construction steel towers.

TEMPORARY HOUSING

Any tent, recreational vehicle or other temporary structure used for human shelter that is designed to be transportable and that is not attached to the ground, to another structure, or to any utility system on the same premises for the purpose of occupancy for more than 30 consecutive days.

⁶⁰⁰ New.

⁶⁰¹ New.

⁶⁰² New.

⁶⁰³ New.

⁶⁰⁴ New.

⁶⁰⁵ New.

TEMPORARY USE⁶⁰⁶

A use that does not conform to the regulations of the applicable zoning district established for a fixed period of time with intent to discontinue such use upon the expiration of such time. A temporary use shall not involve the construction or alteration of any permanent building or structure.

TENNIS COURT⁶⁰⁷

An indoor or outdoor facility designed with courts specifically for the recreational use of tennis, squash, handball, and/or other similar court games.

THOROUGHFARE PLAN⁶⁰⁸

The currently held valid Thoroughfare Plan for the City of Rochester and the Townships of Cascade, Marion, Rochester and Haverhill and a portion of High Forest.

TRAFFIC ENGINEER

The traffic engineer for the applicable Road Authority of a public street.

TRANSPARENCY

The ability to see through with clarity. An opening in the building wall allowing light and views between interior and exterior. Measured as glass area for buildings, glass or screen area for porches and as open area for parking structures.

TRANSPORTATION SERVICES⁶⁰⁹

An establishment furnishing services related to the arrangement of persons and goods movements, such as freight forwarding, parking services, or the rental/leasing of automobiles or two axle trucks.

TURNOUT

An area at the end of a dead-end parking lot designed to allow for the backing of vehicles at the end of the parking lot.

UNDISTURBED, AREA OF

An area of special site preservation to qualify for floor area or density bonus, in which the natural ground cover and plant or woodland growth shall not be removed except through actions:

1. necessary to limit the spread of disease and noxious weeds,
2. to trim or remove dead trees or parts of dead trees that are a hazard, or
3. control the erosion of soil from the site.

UPZONING

A change in zoning allowing more intensive development. More intensive development is indicated by an increase in density, a broadened range of authorized uses, an increased floor area ratio, a shift from residential to commercial development, or a shift from commercial to industrial development.

⁶⁰⁶ Source: 62.149.

⁶⁰⁷ New.

⁶⁰⁸ Confirmation on the accuracy of this definition is required.

⁶⁰⁹ Source: 62.143.

URBAN AGRICULTURE⁶¹⁰

The cultivation of food and/or horticulture crops, aquaponics, aquaculture, and/or hydroponics. Such use may include the production and sale of food products from food grown on the premises. Urban Agriculture includes the raising of small animals like bees for the purpose of producing honey and chickens for the purpose of producing eggs, but does not include slaughtering or selling meat or the keeping of any large animals. All such activities must comply with all applicable provisions of the Rochester Code of Ordinances.

USEABLE RECREATION SPACE

A space provided as an accessory use on the same lot or site as a primary residential use and designed for the conduct of active or passive recreation.

USE (OF LAND)

The purpose or activity for which land or buildings are designed, arranged, or intended, or for which land or buildings are occupied or maintained.

USE, ACCESSORY

A use of land that is secondary and subordinate to the primary use of land.

USE, PRIMARY

The primary use of land or buildings as distinguished from subordinate or accessory uses.

UTILITY, MAJOR⁶¹¹

A facility providing an important regional utility service, such as water, sewer, or drainage, that normally entails construction of new buildings or structures, and that sometimes have employees on the site on an ongoing basis including but not limited to water towers, natural gas regulating stations, electric substations, water treatment plants, sewage treatment plants, above- or below-ground reservoirs, regional storm water detention ponds, electric power lines that transmit over 110 KV of power, and other large facilities that enable the provision of utility services to large geographic area or a large number of people. Major Utility does not include Geothermal Energy System, Ground- or Building-Mounted Solar Collector, or Ground- or Building- Mounted Wind Energy Conversion System (WECS).

UTILITY, MINOR⁶¹²

Equipment necessary to support utility services to development within the immediate vicinity and that involves only minor accessory structures, and that typically do not have employees located at the site on an ongoing basis including but not limited to electric transformer stations and service boxes, gas regulator stations, telephone service boxes, and well, water and sewer pumping stations, and related underground and aboveground pipes and wires, but excluding electric power transmission lines that transmit over 110 KV of power.

⁶¹⁰ New.

⁶¹¹ New.

⁶¹² New.

VETERINARY AND ANIMAL SERVICES⁶¹³

A commercial establishment engaged in the practice of veterinary medicine, dentistry, or surgery, along with those providing animal related services such as kennels, grooming, or breeding services. A single instance of incidental breeding of a household animal is not included in this definition.

WALL

The vertical exterior surface of a building.

WATER ORIENTED ACCESSORY STRUCTURE OR FACILITY

A small above ground building or other improvement, except stairways, fences, docks, and retaining walls, that, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback including but not limited to boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks.

WETLAND⁶¹⁴

An area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances supports a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

WHOLESALE FACILITY⁶¹⁵

An establishment engaged primarily in selling merchandise to retailers, or to industrial, commercial institutional or professional business customers, or to other wholesalers, or on a mail order basis to individuals or firms, or that serve as agents or brokers buying merchandise for, or selling merchandise to, individuals and companies.

WIND ENERGY RELATED DEFINITIONS⁶¹⁶

When used in the context of regulating wind energy conversion systems, the following terms shall have the definitions shown below.

WIND ENERGY CONVERSION SYSTEM (WECS)

A wind energy conversion system as defined in Minnesota Statute 116C, as amended (“... any device such as a wind charger, windmill, or wind turbine and associated facilities that converts wind energy to electrical energy”) (MR 7836.0100).

WIND TURBINE

A machine used to produce electricity by converting the kinetic energy of wind to electrical energy. A wind turbine consists of a rotor, nacelle, tower and supporting cables, and foundation.

⁶¹³ Source: 62.143. Edited to align with current practices of regulating commercial operations and allowing one-time breeding for residential uses.

⁶¹⁴ Source: Olmstead County Zoning Ordinance 9.22. This definition replaces the wetland definition in the current LDM that references the USFS.

⁶¹⁵ Source: 62.144.

⁶¹⁶ Additional uses related to the size of the WECS were removed because they were replaced by the ground- or building-mounted distinctions and are no longer relevant.

WOODLAND

An area of planted material covering one acre or more with a minimum dimension of 66 feet, having a density of twenty trees or more per acre with a caliper of eight inches or more.

YARD

A ground level open space that lies between a primary or accessory building and the nearest lot line. Such yard is unobstructed and open to the sky except as may be specifically provided for in this UDC.

YARD DEPTH

The shortest distance between a lot line and a wall of a building located on the lot.

YARD LINE

A line drawn parallel to a lot line at a distance therefrom equal to the depth of the minimum required yard or setback that defines the required yard area.

YOUTH FACILITY

A public playground, public swimming pool, public library, or licensed day care facility.

ZONING MAP

The map or maps showing the boundaries of the zoning districts listed in this UDC. The zoning map is considered a part of this UDC.

Chapter 60.700 Template Test

Section 60.700.010 TEMPLATE TEST

A. Heading 3

1. List 3
2. List 3
3. List 3

B. Heading 3

1. Heading 4

- a. List 4
- b. List 4
- c. List 4

2. Heading 4

a. Heading 5

- 1) List 5
- 2) List 5

b. Heading 5

Heading 6

- (a) List 6
- (b) List 6

Heading 6

(c) Heading 7

- (i) List 7
- (ii) List 7

(d) Heading 7

(i) Heading 8

1. List 8
2. List 8